

# ***NORTH CAROLINA REGISTER***

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**May 3, 2021**

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**NORTH CAROLINA REGISTER**  
Publication Schedule for January 2021 – December 2021

FILING DEADLINES			NOTICE OF TEXT		PERMANENT RULE			TEMPORARY RULES
Volume & issue number	Issue date	Last day for filing	Earliest date for public hearing	End of required comment Period	Deadline to submit to RRC for review at next meeting	RRC Meeting Date	Earliest Eff. Date of Permanent Rule	270 <sup>th</sup> day from publication in the Register
35:13	01/04/21	12/08/20	01/19/21	03/05/21	03/22/21	04/15/21	05/01/21	10/01/21
35:14	01/15/21	12/21/20	01/30/21	03/16/21	03/22/21	04/15/21	05/01/21	10/12/21
35:15	02/01/21	01/08/21	02/16/21	04/05/21	04/20/21	05/20/21	06/01/21	10/29/21
35:16	02/15/21	01/25/21	03/02/21	04/16/21	04/20/21	05/20/21	06/01/21	11/12/21
35:17	03/01/21	02/08/21	03/16/21	04/30/21	05/20/21	06/17/21	07/01/21	11/26/21
35:18	03/15/21	02/22/21	03/30/21	05/14/21	05/20/21	06/17/21	07/01/21	12/10/21
35:19	04/01/21	03/11/21	04/16/21	06/01/21	06/21/21	07/15/21	08/01/21	12/27/21
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36:01	07/01/21	06/10/21	07/16/21	08/30/21	09/20/21	10/21/21	11/01/21	03/28/22
36:02	07/15/21	06/23/21	07/30/21	09/13/21	09/20/21	10/21/21	11/01/21	04/11/22
36:03	08/02/21	07/12/21	08/17/21	10/01/21	10/20/21	11/18/21	12/01/21	04/29/22
36:04	08/16/21	07/26/21	08/31/21	10/15/21	10/20/21	11/18/21	12/01/21	05/13/22
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36:06	09/15/21	08/24/21	09/30/21	11/15/21	11/22/21	12/16/21	01/01/22	06/12/22
36:07	10/01/21	09/10/21	10/16/21	11/30/21	12/20/21	01/20/22	02/01/22	06/28/22
36:08	10/15/21	09/24/21	10/30/21	12/14/21	12/20/21	01/20/22	02/01/22	07/12/22
36:09	11/01/21	10/11/21	11/16/21	01/03/22	01/20/22	02/17/22	03/01/22	07/29/22
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36:12	12/15/21	11/22/21	12/30/21	02/14/22	02/21/22	03/17/22	04/01/22	09/11/22

This document is prepared by the Office of Administrative Hearings as a public service and is not to be deemed binding or controlling.

## **EXPLANATION OF THE PUBLICATION SCHEDULE**

This Publication Schedule is prepared by the Office of Administrative Hearings as a public service and the computation of time periods are not to be deemed binding or controlling. Time is computed according to 26 NCAC 2C .0302 and the Rules of Civil Procedure, Rule 6.

### **GENERAL**

The North Carolina Register shall be published twice a month and contains the following information submitted for publication by a state agency:

- (1) temporary rules;
- (2) text of proposed rules;
- (3) text of permanent rules approved by the Rules Review Commission;
- (4) emergency rules
- (5) Executive Orders of the Governor;
- (6) final decision letters from the U.S. Attorney General concerning changes in laws affecting voting in a jurisdiction subject of Section 5 of the Voting Rights Act of 1965, as required by G.S. 120-30.9H; and
- (7) other information the Codifier of Rules determines to be helpful to the public.

**COMPUTING TIME:** In computing time in the schedule, the day of publication of the North Carolina Register is not included. The last day of the period so computed is included, unless it is a Saturday, Sunday, or State holiday, in which event the period runs until the preceding day which is not a Saturday, Sunday, or State holiday.

### **FILING DEADLINES**

**ISSUE DATE:** The Register is published on the first and fifteen of each month if the first or fifteenth of the month is not a Saturday, Sunday, or State holiday for employees mandated by the State Personnel Commission. If the first or fifteenth of any month is a Saturday, Sunday, or a holiday for State employees, the North Carolina Register issue for that day will be published on the day of that month after the first or fifteenth that is not a Saturday, Sunday, or holiday for State employees.

**LAST DAY FOR FILING:** The last day for filing for any issue is 15 days before the issue date excluding Saturdays, Sundays, and holidays for State employees.

### **NOTICE OF TEXT**

**EARLIEST DATE FOR PUBLIC HEARING:** The hearing date shall be at least 15 days after the date a notice of the hearing is published.

**END OF REQUIRED COMMENT PERIOD**  
An agency shall accept comments on the text of a proposed rule for at least 60 days after the text is published or until the date of any public hearings held on the proposed rule, whichever is longer.

**DEADLINE TO SUBMIT TO THE RULES REVIEW COMMISSION:** The Commission shall review a rule submitted to it on or before the twentieth of a month by the last day of the next month.





# State of North Carolina

**ROY COOPER**  
GOVERNOR

March 23, 2021

**EXECUTIVE ORDER NO. 204**

**FURTHER EASING OF RESTRICTIONS ON BUSINESSES AND GATHERINGS**

**WHEREAS**, on March 10, 2020, the undersigned issued Executive Order No. 116, 34 N.C. Reg. 1744-1749 (April 1, 2020), which declared a State of Emergency to coordinate the state's response and protective actions to address the Coronavirus Disease 2019 ("COVID-19") public health emergency and provide for the health, safety, and welfare of residents and visitors located in North Carolina; and

**WHEREAS**, on March 11, 2020, the World Health Organization declared COVID-19 a global pandemic; and

**WHEREAS**, on March 13, 2020, the President of the United States issued an emergency declaration for all states, tribes, territories, and the District of Columbia, retroactive to March 1, 2020, and the President declared that the COVID-19 pandemic in the United States constitutes a national emergency; and

**WHEREAS**, on March 25, 2020, the President approved a Major Disaster Declaration, FEMA-4487-DR, for the State of North Carolina; and

**WHEREAS**, in responding to the COVID-19 pandemic, and for the purpose of protecting the health, safety, and welfare of the people of North Carolina, the undersigned has issued Executive Order Nos. 116-122, 124-125, 129-131, 133-136, 138-144, 146-153, 155-157, 161-165, 169-173, 176-177, 180-181, 183-185, and 188-193, 195, 197-198, and 200; and

**WHEREAS**, the undersigned has taken a science and data-driven approach to implementing public health measures to curb the spread of the virus and to advance the state's economy in a safe and effective way, which is in the best interests of all North Carolinians; and

**WHEREAS**, the state has experienced improvement in its key COVID-19 metrics, prompting the undersigned to relax certain restrictions on businesses and gatherings, most recently in Executive Order No. 195; and

**WHEREAS**, over the course of the pandemic, North Carolina's public health experts have gained enhanced knowledge of the COVID-19 virus, including a better understanding of what settings and activities pose the greatest risk of transmitting the virus, and what mitigation strategies are most effective to curb spread; and

**WHEREAS**, over the course of the pandemic, the state has also expanded its access to personal protective equipment and other necessary materials to better protect the population from the spread of COVID-19, and has increased its ability to test for and to trace the virus; and

**WHEREAS**, the state has also mounted a robust vaccination effort, to distribute the state's allocated supply of vaccines authorized by the Food and Drug Administration ("FDA") to all people living in or spending significant time in North Carolina; and

**WHEREAS**, North Carolina is rapidly expanding its capacity to vaccinate individuals against COVID-19, and as of the date of this Executive Order, over thirty-one percent (31%) of the state's population over age eighteen (18) is partially vaccinated, and over eighteen percent (18%) of the state's population over age eighteen (18) is fully vaccinated; and

**WHEREAS**, in light of the above factors, the undersigned now desires to further relax occupancy limitations and other requirements on certain businesses and gatherings, as set forth herein; and

**WHEREAS**, however, because the state's key COVID-19 metrics remain at elevated levels, and because of the potential impact of the presence of new variants of the virus in North Carolina, which may be more transmissible and may result in increased disease severity, the lifting of restrictions necessarily must continue to be undertaken in a targeted and phased manner to best protect the health and safety of all North Carolinians, with particular caution given to loosening restrictions in high-risk settings; and

**WHEREAS**, by following this targeted and phased approach, the undersigned intends to reopen the state's economy as fully as possible, without sacrificing the state's progress in managing the pandemic; and

**WHEREAS**, it also remains critical that North Carolinians continue to exercise personal responsibility in protecting themselves and others from the spread of the COVID-19, including by wearing Face Coverings, maintaining social distancing, washing hands frequently, and operating and frequenting businesses in compliance with this and other Executive Orders; and

#### Improvements in Key COVID-19 Metrics

**WHEREAS**, over recent months in North Carolina, due to the measures taken to-date by the undersigned and due to the resilience and persistence of all North Carolinians, there have been sustained improvements in the state's key COVID-19 metrics; and

**WHEREAS**, specifically, as of the date of this Executive Order, the state is experiencing declines in the percent of emergency department visits that are due to COVID-like illness, the number of COVID-19 daily diagnoses, the percent of total COVID-19 tests that are positive and the number of COVID-19-associated hospitalizations, relative to the peak severity of these metrics in January 2021; and

**WHEREAS**, despite these improvements, COVID-19 remains a serious threat to North Carolina communities, as evidenced by the fact that between February 28, 2021 and March 13, 2021, every county in the state is rated to have at least a "significant" rate of COVID-19 community spread, according to the County Alert System developed by the North Carolina Department of Health and Human Services ("NCDHHS"), which evaluates a county's COVID-19 case counts, percent positives, and hospital occupancy; and

**WHEREAS**, although North Carolinians should find cause for optimism in the measured progress to-date, COVID-19 continues to inflict an unprecedented toll on human life in North Carolina; and

**WHEREAS**, more than eight hundred ninety-nine thousand (899,000) people in North Carolina have had COVID-19, and more than eleven thousand eight hundred (11,800) people in North Carolina have died from the disease; and

#### Lifting of Certain Restrictions under North Carolina's Phased. "Dimmer Switch" Approach

**WHEREAS**, by using a phased reopening approach, North Carolina is endeavoring to manage the risk of COVID-19 exposure from a public health perspective in order to ensure that the state's health care providers have the resources and availability to protect people's lives while

also allowing people to return to work and take part in activities that are integral parts of people's lives; and

**WHEREAS**, the undersigned directs the phased reopening measures set forth in this Executive Order in consultation with NCDHHS; and

**WHEREAS**, in light of the continued measured progress the state has achieved in its key COVID-19 metrics, it is reasonable to raise the indoor mass gathering limit to fifty (50) persons and the outdoor mass gathering limit to one hundred (100) persons, which will allow people to gather in larger numbers with friends and loved ones, while still adhering to Face Coverings and mitigation measures, as a strategy to limit the spread of COVID-19 transmission posed by large crowds; and

**WHEREAS**, in light of the continued measured progress the state has achieved in its key COVID-19 metrics, the current percentage occupancy limits on certain establishments can be incrementally raised to limits which will continue to reduce person-to-person contacts, and the upper limit on the number of individuals who can gather in certain indoor establishments required by previous Executive Orders can be removed; and

**WHEREAS**, social distancing of Guests will continue to be required in these settings; and

**WHEREAS**, in light of the continued measured progress the state has achieved in its key COVID-19 metrics, the cut-off time on the sale and service of alcoholic beverages for on-site consumption established by the previous Executive Orders can be lifted at this time; and

**Certain Businesses Pose Greater Risks of COVID-19 Transmission and Loosening Restrictions Must be Undertaken in a Cautious Manner**

**WHEREAS**, for the reasons set forth herein and in the undersigned's previous Executive Orders, restrictions have been imposed on businesses which are designed to limit the number and duration of contacts between people, particularly in settings in which people exert increased respiratory effort, that are indoors, that involve people being in close physical contact for an extended period of time (more than 15 minutes), that involve large numbers of people, that are in settings in which it is difficult to wear Face Coverings consistently, or are in settings in which people are otherwise less likely to adhere to social distancing and other measures for reducing COVID-19 spread; and

**WHEREAS**, certain types of businesses by their very nature present greater risks of spread of COVID-19 because of the nature of the activity, the way that people have traditionally acted and interacted with each other in the space, and the duration that patrons stay in the establishment; and

**WHEREAS**, the undersigned's previous Executive Orders have addressed the particular risks posed by Bars, and other establishments in which people mingle with one another and cannot consistently maintain social distancing or consistently wear Face Coverings, or gather in large crowds; and

**WHEREAS**, in these establishments, loosening restrictions must necessarily be undertaken in a cautious manner; and

**Statutory Authority and Determinations**

**WHEREAS**, Executive Order No. 116 invoked the Emergency Management Act, and authorizes the undersigned to exercise the powers and duties set forth therein to direct and aid in the response to, recovery from, and mitigation against emergencies; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.10(b)(2), the undersigned may make, amend, or rescind necessary orders, rules, and regulations within the limits of the authority conferred upon the Governor in the Emergency Management Act; and

**WHEREAS**, N.C. Gen. Stat. § 166A-19.10(b)(3) authorizes and empowers the undersigned to delegate Gubernatorial vested authority under the Emergency Management Act and to provide for the sub-delegation of that authority; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.12(3)(e), the Division of Emergency Management must coordinate with the State Health Director to revise the North Carolina Emergency Operations Plan as conditions change, including making revisions to set “the appropriate conditions for quarantine and isolation in order to prevent the further transmission of disease,” and following this coordination, the Emergency Management Director and the State Health Director have recommended that the Governor develop and order the plan and actions identified in this Executive Order; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.23 in conjunction with N.C. Gen. Stat. §§ 75-37 and 75-38, the undersigned may issue a declaration that shall trigger the prohibitions against excessive pricing during states of disaster, states of emergency or abnormal market disruptions; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(1), the undersigned may utilize all available state resources as reasonably necessary to cope with an emergency, including the transfer and direction of personnel or functions of state agencies or units thereof for the purpose of performing or facilitating emergency services; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(2), the undersigned may take such action and give such directions to state and local law enforcement officers and agencies as may be reasonable and necessary for the purpose of securing compliance with the provisions of the Emergency Management Act and with the orders, rules, and regulations made thereunder; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.30(c)(i), the undersigned has determined that local control of the emergency is insufficient to assure adequate protection for lives and property of North Carolinians because not all local authorities have enacted such appropriate ordinances or issued such appropriate declarations restricting the operation of businesses and limiting person-to-person contact, thus needed control cannot be imposed locally; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.30(c)(ii), the undersigned has determined that local control of the emergency is insufficient to assure adequate protection for lives and property of North Carolinians because some but not all local authorities have taken implementing steps under such ordinances or declarations, if enacted or declared, in order to effectuate control over the emergency that has arisen; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.30(c)(iii), the undersigned has determined that local control of the emergency is insufficient to assure adequate protection for lives and property of North Carolinians because the area in which the emergency exists spreads across local jurisdictional boundaries and the legal control measures of the jurisdictions are conflicting or uncoordinated to the extent that efforts to protect life and property are, or unquestionably will be, severely hampered; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.30(c)(iv), the undersigned has determined that local control of the emergency is insufficient to assure adequate protection of lives and property of North Carolinians because the scale of the emergency is so great that it exceeds the capability of local authorities to cope with it; and

**WHEREAS**, N.C. Gen. Stat. § 166A-19.30(c) in conjunction with N.C. Gen. Stat. § 166A-19.31(b)(1) authorizes the undersigned to prohibit and restrict the movement of people in public places; and

**WHEREAS**, N.C. Gen. Stat. § 166A-19.30(c) in conjunction with N.C. Gen. Stat. § 166A-19.31(b)(1)(d) authorizes the undersigned to control the movement of persons within the emergency area; and

**WHEREAS**, N.C. Gen. Stat. § 166A-19.30(c) in conjunction with N.C. Gen. Stat. § 166A-19.31(b)(2) authorizes the undersigned to prohibit and restrict the operation of offices, business establishments, and other places to and from which people may travel or at which they may congregate; and

**WHEREAS**, N.C. Gen. Stat. § 166A-19.30(c) in conjunction with N.C. Gen. Stat. § 166A-19.31(b)(3) authorizes the undersigned to restrict the possession, transportation, sale, purchase, and consumption of alcoholic beverages; and

**WHEREAS**, N.C. Gen. Stat. § 166A-19.30(c) in conjunction with N.C. Gen. Stat. § 166A-19.31(b)(5) authorizes the undersigned to prohibit and restrict other activities or conditions, the control of which may be reasonably necessary to maintain order and protect lives or property during a state of emergency; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.30(c)(1), when the undersigned imposes the prohibitions and restrictions enumerated in N.C. Gen. Stat. § 166A-19.31(b), the undersigned may amend or rescind the prohibitions and restrictions imposed by local authorities.

**NOW, THEREFORE**, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, and for the reasons and pursuant to the authority set forth above, **IT IS ORDERED**:

**Section 1. Introduction.**

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

**1.1. Definitions.**

- a. “Amusement Park” has the definition at N.C. Gen. Stat. § 95-111.3, except that it does not include waterslides as defined by N.C. Gen. Stat. § 95-111.3(h).
- b. “Amusement Transportation” means tour buses, tour trains, or other scenic and sightseeing transportation that is principally offered and used for amusement, regardless of whether such transportation is located in an Amusement Park.
- c. “Bars” means establishments that are not eating establishments or restaurants as defined in N.C. Gen. Stat. §§ 18B-1000(2) and 18B-1000(6), that have a permit to sell alcoholic beverages for on-site consumption under N.C. Gen. Stat. § 18B-1001, and that are principally engaged in the business of selling alcoholic beverages for on-site consumption.
- d. “Emergency Maximum Occupancy” means the maximum occupancy for a facility (or room within a facility, as applicable) under this Executive Order.
- e. “Face Covering” means a covering of the nose and mouth that is secured to the head with ties, straps, or loops over the ears and fits snugly against the side of a person’s face. A Face Covering can be made of a variety of synthetic and natural fabrics, including cotton, silk, or linen. Face Coverings are most effective when they fit snugly against a person’s face and have two (2) or more layers. This can be achieved by wearing a cloth Face Covering with two or more layers or by wearing one disposable mask underneath a cloth mask. A cloth Face Covering may be factory-made, sewn by hand, or can be improvised from household items such as scarfs, bandanas, t-shirts, sweatshirts, or towels. These Face Coverings are not intended for use by healthcare providers in the care of patients.

Based on recommendations from the CDC, face shields do not meet the requirements for Face Coverings.

- f. “Guest” means any attendee, customer, guest, member, patron, spectator, or other person lawfully on the property of another that does not own the property or work at the property.

- g. “N95 Respirator” means a Face Covering approved by the National Institute for Occupational Safety and Health (“NIOSH”) or a respirator from another country allowed by the Occupational Safety & Health Administration, the Food & Drug Administration, or the CDC. N95 respirators are not recommended for general public use or use in public settings, as they should be reserved for healthcare providers and other medical first responders in a health care setting. However, if worn, N95 respirators would meet both the Face Covering and Surgical Mask requirements of this Executive Order.
- h. “Personal Care, Grooming, and Tattoo Businesses” means businesses that (i) do not provide health care services; and (ii) either (1) have workers directly touch Guests or (2) have a piece of equipment (other than a touchscreen) repeatedly come into contact directly with Guests’ skin. This includes, but is not limited to, barber shops, beauty salons (including but not limited to waxing and hair removal centers), hair salons, nail salons, manicure or pedicure providers, tattoo businesses, tanning salons, and massage therapists.
- i. “Playground” means a recreation area for children equipped with playground equipment, including but not limited to soft contained play equipment, swings, seesaws, slides, stationary spring-mounted animal features, jungle gyms, rider-propelled merry-go-rounds, and trampolines.
- j. “Recommendations to Promote Social Distancing and Reduce Transmission” are defined in Subsection 1.5 below.
- k. “Restaurants” means permitted food establishments, under N.C. Gen. Stat. § 130A-248, and other establishments that both prepare and serve food. This includes, but is not limited to, restaurants, cafeterias, food halls, dining halls, food courts, and food kiosks. This includes not only free-standing locations but also locations within other businesses or facilities, including, but not limited to airports, shopping centers, educational institutions, or private or members-only clubs where food and beverages are permitted to be consumed on premises.
- l. “Retail Business” means any business in which Guests enter a space to purchase goods or services, including but not limited to grocery stores, convenience stores, large format retail stores, pharmacies, banks, and ABC stores. This also includes, but is not limited to, (i) retail establishments operated by the state, its political subdivisions, or agencies thereof, and (ii) state agencies under the jurisdiction of the undersigned which have a public-facing component offering a service, such as the Division of Motor Vehicles, the North Carolina Department of Revenue, and shops in North Carolina Department of Natural and Cultural Resources facilities.
- m. “Surgical Mask” means American Society for Testing and Materials (“ASTM”) Level 1, 2, or 3 approved procedural and surgical masks.

#### **1.2.Exemptions.**

Worship, religious, and spiritual gatherings, funeral ceremonies, wedding ceremonies, and other activities constituting the exercise of First Amendment rights are exempt from all the requirements of this Executive Order, notwithstanding any other provision of this Executive Order.

The undersigned strongly urges that entities and individuals engaging in these exempted activities follow the Recommendations to Promote Social Distancing and Reduce Transmission, wear and require Face Coverings, and avoid exceeding Emergency Maximum Occupancy in the places where they meet.

#### **1.3.Structure of This Executive Order.**

To control the spread of COVID-19 and protect lives during the State of Emergency, this Section lists restrictions on the operations of business establishments and other places to or from which people may travel or at which they may congregate. Businesses or operations within the



scope of Sections 2 to 6 are prohibited from operating unless they follow all applicable restrictions stated in these sections.

In general, this Executive Order broadly requires Face Coverings in most settings, then lists a series of specific restrictions for certain kinds of businesses. Each affected type of business has a series of specific health and safety measures included in the attached appendices to this Executive Order.

Most of these businesses must also follow restrictions on emergency maximum occupancy. In this Executive Order, capacity restrictions fall into three general types:

- The limit is one hundred percent (100%) of fire capacity for museums, personal care businesses, retail businesses, and the outdoor spaces of restaurants, amusement parks, fitness and physical activity facilities, and pools.
- The limit is seventy-five percent (75%) of fire capacity for the indoor spaces of restaurants, amusement parks, fitness and physical activity facilities, and pools.
- The limit is fifty percent (50%) of fire capacity for the indoor areas of movie theaters and entertainment facilities, the indoor and outdoor areas of bars, meeting spaces, conference centers, reception venues, and other indoor and outdoor venues and arenas.

Establishments will also be required to ensure social distancing between Guests or groups of Guests. Details about these restrictions are found below in Sections 2 to 6 of this Executive Order. The specific provisions of Sections 2 to 6 take precedence over the general descriptions in the summary above.

**1.4. Interpretation of Capacity Restrictions under this Executive Order.**

- a. Workers and any other support staff do not count toward the capacity limits. For sporting and entertainment events, athletes, coaches, entertainers, and other support staff do not count toward the capacity limits.
- b. Any facility that meets the definition of “Restaurant” in this Executive Order is covered by Subsection 3.14 of this Executive Order.
- c. Nothing in this Executive Order prevents establishments from opening up or expanding outdoor seating areas, subject to applicable local and state regulations.

**1.5. General Recommendations.**

All North Carolinians are strongly encouraged to follow the recommendations for reducing the spread of COVID-19 issued by NCDHHS. These recommendations include the following Recommendations to Promote Social Distancing and Reduce Transmission:

- a. Maintain at least six (6) feet social distancing from other individuals, with the exception of family or household members.
- b. Wear a Face Covering over the nose and mouth when leaving home and wear it inside all public settings such as grocery stores, pharmacies, or other retail or public-serving businesses. A Face Covering should also be worn outdoors when you cannot maintain at least six (6) feet distancing from other people with the exception of family or household members.
- c. Carry hand sanitizer with you when leaving home, and use it frequently.
- d. Wash hands using soap and water for at least twenty (20) seconds as frequently as possible.
- e. Regularly clean high-touch surfaces such as steering wheels, wallets, and phones.
- f. Avoid large gatherings.
- g. Stay at home if sick.
- h. Fully vaccinated individuals should follow CDC guidance when gathering with other fully vaccinated individuals.

**Section 2. Face Coverings.**

For the avoidance of doubt, this Section generally requires North Carolinians to wear Face Coverings in public places, both indoors and outdoors. This Section also authorizes law enforcement to enforce Face Covering requirements against individuals who fail to wear a Face Covering outside the home without any applicable exception. Where a question might arise as to whether an individual who is able to wear a Face Covering in North Carolina is required to wear one in a certain context, this Executive Order seeks to promote the wearing of Face Coverings.

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

**2.1. Face Coverings Required In Public Places.**

- a. The undersigned enacts the following restriction on the movement of people in public places and restriction on the operation of offices, business establishments, schools, and other places where people may travel or congregate.
- b. For any place outside the home, including but not limited to businesses, schools, and other establishments and spaces:
  1. Face Coverings must be worn indoors if anyone else is in that space who is not a member of the same household.
  2. Face Coverings must be worn outdoors if it is not possible to consistently be physically distant by more than six (6) feet from non-household members.
- c. These requirements shall apply to all people at least five (5) years old, unless an exception applies. These requirements are recommended for all people over the age of two (2) years old.

**2.2. Restrictions for Specific Settings.** Section 3 of this Executive Order states a series of specific Face Covering requirements for certain types of businesses and establishments. These requirements are in addition to, and not in lieu of, the general restrictions stated above.

**2.3. Employer Good Faith Obligation to Provide Face Coverings.** Employers who have workers who perform work outside of their home in North Carolina and have not already provided Face Coverings for their workers shall make good-faith efforts to provide a one-week supply of reusable Face Coverings or a new disposable Face Covering daily as soon as possible for workers to use at their place of employment. New Face Coverings should be provided during the work day if the worker's Face Covering becomes soiled, torn, or wet.

**2.4. Exceptions.** This Executive Order does not require Face Coverings for—and a Face Covering does not need to be worn by—a worker or Guest who:

- a. Should not wear a Face Covering due to any medical or behavioral condition or disability (including, but not limited to, any person who has trouble breathing, or is unconscious or incapacitated, or is otherwise unable to put on or remove the Face Covering without assistance);
- b. Is under five (5) years of age;
- c. Is actively eating or drinking;
- d. Is seeking to communicate with someone who is hearing-impaired in a way that requires the mouth to be visible;
- e. Is giving a speech for a broadcast or to an audience;
- f. Is working at home or is in a personal vehicle;
- g. Is temporarily removing his or her Face Covering to secure government or medical services or for identification purposes;
- h. Would be at risk from wearing a Face Covering at work, as determined by local, state, or federal regulations or workplace safety guidelines;
- i. Has found that his or her Face Covering is impeding visibility to operate equipment or a vehicle; or



- j. Is a child whose parent, guardian, or responsible person has been unable to place the Face Covering safely on the child's face.

Anyone who declines to wear a Face Covering for these reasons should not be required to produce documentation or any other proof of a condition.

Children under two (2) years of age should not wear a Face Covering.

**2.5. Face Coverings and Exercise.**

People must wear Face Coverings while exercising if they are either:

- Outdoors and within six (6) feet of someone who does not reside in the exercising person's household; or
- Indoors and not within their own home.

However, people need not wear a Face Covering while exercising if:

- One of the exceptions stated in Subsection 2.4 applies;
- They have symptoms while strenuously exercising such as trouble breathing, dizziness, or lightheadedness;
- They are wearing equipment like a mouthguard or helmet and are having trouble breathing;
- They are doing any activity in which the Face Covering could become entangled and a choking hazard or impair vision in high risk activities such as gymnastics, cheerleading, or tumbling; or
- They are doing activities that may cause the Face Covering to become wet, like swimming or other activities in a pool, lake, water attraction, or similar body of water.

**2.6. Face Coverings for Professional or Collegiate Athletes Under a COVID-19 Health and Safety Protocol.**

As an exception to the other provisions of this Section, Face Coverings are encouraged, but not required for professional or collegiate athletes if (1) they are strenuously exercising or recovering from exercise and (2) those athletes are training for or participating in a sport that is under the oversight of a league, association, or other organizer that required teams and players to follow a protocol for reducing risk from COVID-19. These athletes must wear Face Coverings, including on sidelines and in practice, at any time that they are not strenuously exercising or recovering from recent exercise.

**2.7. How Businesses May Accommodate Exceptions.** If a Guest states that an exception applies, a business may choose to offer curbside service, provide home delivery, or use some other reasonable measure to deliver its goods or services.

**2.8. Enforcement of Face Covering Requirements.**

If a person does not wear a Face Covering in a situation where a Face Covering is required under this Executive Order, and if an exception to the Face Covering requirement does not apply:

- a. Law enforcement officers may cite the people who failed to wear Face Coverings as required by Executive Order; and/or
- b. Law enforcement officers may cite a business or organization that failed to enforce the requirement to wear Face Coverings.

Further, if a business or organization does not allow entry to a worker or Guest because that person refuses to wear a Face Covering, and if that worker or Guest enters the premises and refuses to leave the premises, law enforcement personnel may enforce the trespassing laws and any other laws that the worker or Guest may violate.

**2.9. Schools.** In all public school units, as defined by N.C. Gen. Stat. § 115C-5(7a), and all nonpublic schools covered by Article 39 of Chapter 115C of the General Statutes, all workers,

teachers, Guests, other adults and children five (5) years or older must wear Face Coverings both:

- When outdoors and within six (6) feet of another person, unless an exception applies;
- When indoors, at all times, unless an exception applies.

**Section 3. Restrictions on Certain Businesses and Operations.**

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

3.1. **Amusement Parks.** Amusement Parks and Amusement Transportation may operate under the following restrictions:

- a. **Face Coverings.** All workers and Guests must wear Face Coverings when they are on premises or on transportation operated by the establishment.
- b. **Capacity Restrictions.**
  1. **Outdoor Spaces.** The facility must limit Guests to one hundred percent (100%) of the stated fire capacity for each outdoor space controlled by the facility. For rooms or spaces without a stated fire capacity, the limit on Guests is twenty-four (24) per one thousand (1000) square feet, rounded up.
  2. **Indoor Spaces.** The facility must limit Guests to seventy-five (75%) of the stated fire capacity for each building, room, or other indoor space controlled by the facility. This limit applies separately to each room within a building. For rooms or spaces without a stated fire capacity, the limit on Guests is eighteen (18) per one thousand (1000) square feet, rounded up.
  3. **On each Ride or on Amusement Transportation.** The operator must limit the number of Guests within each vehicle or car to either:
    - Have all the Guests within a vehicle or car be people who came into the ride loading area together as part of the same group of friends or family; or
    - Ensure six (6) feet of social distancing between each group of friends or family within the vehicle or car.
- c. **Additional Health and Safety Requirements.** The operator must follow the additional health and safety requirements specified in Appendix B.

3.2. **Bars, Night Spots, and Arenas.**

- a. This Subsection applies to the following:
  - Bars
  - Lounges (such as cigar bars and hookah lounges) in which tobacco or related products are consumed on premises
  - Auditoriums, amphitheaters, arenas, and other venues for live performances
  - Music halls, night clubs, or dance halls
  - Adult entertainment facilities
  - Spectator stands and viewing areas at a sporting facility, stadium, sporting complex, or speedway
- b. **Face Coverings.** Unless an exception applies:
  - Facilities covered by this Subsection must have all workers wear Face Coverings.
  - In addition, these establishments must have all Guests wear Face Coverings (including at a table or counter) when they are not actively drinking or eating.
- c. **Must Be Seated.** To limit the degree to which Guests at the facility may come into contact with one another and spread COVID-19, a facility covered by this Subsection

is closed unless it is or becomes a seated establishment for Guests. Guests must be in seats except to enter, leave, use amenities, visit the restroom, and obtain food or drink.

- d. **Capacity Restrictions.** While this Executive Order is in effect, all open facilities covered by this Subsection must limit Guests in indoor and outdoor seating areas to Emergency Maximum Occupancy. Under this Executive Order, the Emergency Maximum Occupancy for a facility is the lowest number produced by applying the following tests:
  - 1. **Overall.** The facility must limit Guests to fifty percent (50%) of the stated fire capacity for each indoor and outdoor space controlled by the facility. For rooms or spaces without a stated fire capacity, the limit on Guests is twelve (12) per one thousand (1000) square feet, rounded up.
  - 2. **Social Distancing Required.** The facility must limit the number of Guests in the space so that groups can stay six (6) feet apart.
- e. **Meetings and Private Functions.** Any meeting or function held in a private room in a facility covered by this Subsection is covered by the capacity and other restrictions stated below in Subsection 3.8 of this Executive Order (“Meeting Spaces, Conference Centers, and Reception Venues”).
- f. **Additional Health and Safety Requirements.** Facilities covered by this Subsection must follow the additional health and safety requirements specified in Appendix C to this Executive Order.

### **3.3. Child Care Facilities.**

- a. **Face Coverings.** Child care facilities must have workers, all other adults, and children five (5) years or older on-site wear Face Coverings, unless an exception applies.
- b. **Child Care Facilities May Open and May Serve All Children.** Child care facilities may open or reopen, and they may serve all children in North Carolina. All references to “covered children” in Executive Order Nos. 130 and 139 shall refer to all children.
- c. **Additional Health and Safety Requirements.** Child care facilities that are open or reopened consistent with the Executive Order must abide by the health and safety requirements in Appendix D of this Executive Order.
- d. **Relationship to Other Executive Orders.** Subdivisions 3.3(b) and (c)(1) above completely replace Subsections 2(C) and 2(D) of Executive Order No. 130. Subsections 2(A)-(B) and 2(E)-(H) of Executive Order No. 130 and Section 3 of Executive Order No. 139 shall continue in effect as specified in Executive Order Nos. 152, 177, and 193, and any subsequent executive orders.

### **3.4. Children’s Day or Overnight Camps.**

- a. **Face Coverings.** Children’s day camps and overnight camps must have workers, all other adults, and children five (5) years or older on-site wear Face Coverings, unless an exception applies.
- b. **Additional Requirements.** To the extent, if any, that day camps and overnight camps continue to operate during the effective period of this Executive Order, the requirements of Executive Order No. 141 (as amended) which are applicable to Day Camps and Overnight Camps in that Order shall continue to apply to those camps.

### **3.5. Fitness and Physical Activity Facilities.**

- a. This Subsection applies to “Fitness and Physical Activity Facilities.” defined as any of the following:

- Exercise facilities (e.g., yoga studios, dance studios, ballrooms for dancing, martial arts facilities, gymnastics, indoor trampoline and rock climbing facilities)
  - Gyms
  - Fields of play, including but not limited to basketball courts, baseball fields, volleyball courts, racquetball courts, squash courts, hockey rinks, soccer fields, and tennis courts (with spectators, if any, limited as stated in Subsection 3.2 of this Executive Order)
  - Health clubs and fitness centers
  - Boxing clubs
  - Skating rinks
  - Bowling alleys
  - Golf courses and driving ranges
  - Golf ball hitting bays
  - Mini-golf courses
  - Go-cart tracks
  - The track for any speedway or raceway (with spectators, if any, limited as stated in Subsection 3.2 of this Executive Order)
  - Paintball, laser tag, and similar fields and arenas
  - Indoor Playgrounds
- b. Face Coverings. All workers and Guests must wear Face Coverings when they are inside the establishment, regardless of whether they are exercising. When outdoors, workers and Guests must wear Face Coverings when they are within six (6) feet of someone who does not reside in the same household. The exceptions in Sections 2.4 and 2.5 of this Executive Order apply.
- c. Capacity Restrictions.
1. Indoor Areas. Fitness and Physical Activity Facilities must limit Guests in indoor areas to the lowest number produced by applying the following two tests:
    - a. Overall. Limit the number of Guests in indoor areas to seventy-five percent (75%) of stated fire capacity (or, for spaces without a stated fire capacity, no more than eighteen (18) Guests for every one thousand (1000) square feet of the location's total square footage, including the parts of the location that are not accessible to Guests).
    - b. In Any Room. Limit the number of Guests in any given room of the facility so that everyone can stay six (6) feet apart.
  2. Outdoor Areas. Fitness and Physical Activity Facilities must limit Guests in outdoor areas to the lowest number produced by applying the following two tests:
    - a. Overall. Limit the number of Guests in outdoor areas to one hundred percent (100%) of stated fire capacity (or, for spaces without a stated fire capacity, no more than eighteen (18) Guests for every one thousand (1000) square feet).
    - b. Social Distancing Required. Limit the number of Guests in outdoor spaces so that everyone can stay six (6) feet apart.
  3. Games or Events with Spectators. The capacity restrictions for facilities in Subsection 3.2 above, not the capacity restrictions in Subsections 3.5(c)(1)-(2) above, apply to Fitness and Physical Activity Facilities whenever they host a game with spectators.

- d. Additional Health and Safety Requirements. Operators of Fitness and Physical Activity Facilities must follow the additional health and safety requirements in Appendix E to this Executive Order.

3.6. **Government Operations.** Unless an exception applies, state government agencies headed by members of the Governor's Cabinet and the Governor's Office must have their on-site workers wear Face Coverings when they are indoors. In addition, unless an exception applies, these agencies must require Face Coverings for any outdoor work within six (6) feet of another person. State government agencies headed by members of the Governor's Cabinet and the Governor's Office must also follow the requirements for Retail Businesses established in this Executive Order unless necessary to complete that Office's mission. All other state and local government agencies are strongly encouraged to adopt similar policies.

3.7. **Health Care Settings.**

- a. Surgical Masks in Long Term Care Facilities. All workers in Long Term Care ("LTC") Facilities, including skilled nursing facilities ("SNF"), adult care homes ("ACH"), family care homes ("FCH"), mental health group homes, and intermediate care facilities for individuals with intellectual disabilities ("ICF-IID"), must wear Face Coverings while in the facility, and those Face Coverings must be Surgical Masks, as long as Surgical Mask supplies are available.
- b. Other Health Care Settings. Health care facilities other than LTC facilities must follow the Face Covering requirements in the CDC Infection Control Guidance for Healthcare Professionals about Coronavirus (COVID-19).
- c. Other Requirements. Additional requirements in health care settings can be found in Executive Order Nos. 130 and 139 and in the Secretarial Orders issued under Executive Order Nos. 152, 165, 177, and 193.

3.8. **Meeting Spaces, Conference Centers, and Reception Venues.**

- a. This Subsection applies to "Meeting Spaces, Conference Centers, and Reception Venues," defined as private rooms or other private meeting spaces in a hotel, conference center, meeting hall, or reception venue.
- b. Face Coverings. All workers and Guests must wear Face Coverings when they are or may be within the facility. When outdoors, workers and Guests must wear Face Coverings when they are within six (6) feet of someone who does not reside in the same household.
- c. Must Be Seated. To limit the degree to which Guests at the facility may come into contact with one another and spread COVID-19, a facility covered by this Subsection is closed unless it is or becomes a seated establishment for Guests. Guests must be in seats except to enter, leave, use amenities, visit the restroom, and obtain food or drink.
- d. Capacity Restrictions. While this Executive Order is in effect, all open facilities covered by this Subsection must limit Guests in indoor and outdoor seating areas to Emergency Maximum Occupancy. Under this Executive Order, the Emergency Maximum Occupancy for a facility is the lowest number produced by applying the following tests:
  - 1. Overall. The facility must limit Guests to fifty percent (50%) of the stated fire capacity for each indoor and outdoor space controlled by the facility. For rooms or spaces without a stated fire capacity, the limit on Guests is twelve (12) per one thousand (1000) square feet, rounded up.
  - 2. Social Distancing Required. The facility must limit the number of Guests in the space so that groups can stay six (6) feet apart.

- e. Hotels and other Large Facilities. For hotels or other facilities where private meeting spaces are a portion of a larger facility that is not restricted by this Section of this Executive Order, the limits stated above are measured only for the portion of the facility composed of private meeting spaces.
- f. Additional Health and Safety Requirements. Facilities covered by this Subsection must follow the additional health and safety requirements in Appendix F of this Executive Order.

**3.9. Movie Theaters and Entertainment Facilities.**

- a. This Subsection applies to movie theaters and any entertainment facilities that are not covered by another provision of this Section of this Executive Order, such as Subsection 3.2 (entitled “Bars, Night Spots, and Arenas”) or Subsection 3.5 (entitled “Fitness and Physical Activity Facilities”). Facilities covered by this Subsection include, but are not limited to, the following types of businesses:
  - Movie theaters
  - Bingo parlors, including bingo sites operated by charitable organizations
  - Facilities where the purpose is to engage in games of cards, such as bridge
  - Gaming and business establishments which allow gaming activities (e.g., video games, arcade games, pinball machines or other computer, electronic or mechanical devices played for amusement)
- b. Face Coverings. All workers and Guests must wear Face Coverings when they are or may be within the facility. When outdoors, workers and Guests must wear Face Coverings when they are within six (6) feet of someone who does not reside in the same household.
- c. Must Be Seated. To limit the degree to which Guests at the facility may come into contact with one another and spread COVID-19, a facility covered by this Subsection is closed unless it is or becomes a seated establishment for Guests. Guests must be in seats except to play, enter, leave, use amenities, visit the restroom, and obtain food or drink.
- d. Capacity Restrictions. While this Executive Order is in effect, all open facilities covered by this Subsection must limit Guests in indoor and outdoor seating areas to Emergency Maximum Occupancy. Under this Executive Order, the Emergency Maximum Occupancy for a facility is the lowest number produced by applying the following tests:
  - 1. Outdoor Spaces. The facility must limit Guests to seventy five percent (75%) of the stated fire capacity for each outdoor space controlled by the facility. For rooms or spaces without a stated fire capacity, the limit on Guests is eighteen (18) per one thousand (1000) square feet, rounded up.
  - 2. Indoor Spaces. The facility must limit Guests to fifty percent (50%) of the stated fire capacity for each building, room, or other indoor space controlled by the facility. This limit applies separately to each room within a building. For rooms or spaces without a stated fire capacity, the limit on Guests is twelve (12) per one thousand (1000) square feet, rounded up.
  - 3. Social Distancing Required. The facility must limit the number of Guests in the space so that groups can stay six (6) feet apart.
- e. Additional Health and Safety Requirements. Facilities covered by this Subsection must follow the additional health and safety requirements in Appendix G of this Executive Order.

- f. Gaming. This Executive Order does not order the closure of gaming establishments. However, nothing in this Executive Order shall be construed to authorize any gaming activity prohibited by Chapter 14 of the North Carolina General Statutes.

**3.10. Museums and Aquariums.**

- a. Face Coverings. Unless an exception applies:
- Workers in museums and aquariums must wear Face Coverings when they are inside.
  - Workers in museums and aquariums must also wear Face Coverings if they are outside and within six (6) feet of another person.
  - In addition, Guests must wear Face Coverings.
- b. Capacity Restrictions. All operators of open museums or aquariums must limit Guests to Emergency Maximum Occupancy. Under this Executive Order, the Emergency Maximum Occupancy for a facility is the lowest number produced by applying the following tests:
1. Overall. Limit the number of Guests in the museum or aquarium to one hundred percent (100%) of stated fire capacity (or, for spaces without a stated fire capacity, no more than twenty-four (24) Guests for every one thousand (1000) square feet of the location's total square footage, including the parts of the location that are not accessible to Guests).
  2. Social Distancing Required. The facility must limit the number of Guests so that groups are able to social distance and remain six (6) feet away from groups other than those in their households.
- c. Additional Health and Safety Requirements. All operators of open museums or aquariums must follow the Core Signage, Sanitation and Screening Requirements in Appendix A to this Executive Order.

**3.11. Parks.**

- a. Face Coverings. Unless an exception applies, Face Coverings are required for all people in parks if they are either within six (6) feet of another person or are indoors.
- b. Capacity Limits. Parks must restrict each group of Guests to be no more than the Mass Gathering limit stated below in Subsection 5.1 of this Executive Order. Each group of people within an outdoor park, trail, or beach must be limited so that the group, counted on its own, does not exceed the Mass Gathering limit.
- c. Requirements for Park Operators. All operators of open public or private parks must follow the Core Signage, Sanitation and Screening Requirements in Appendix A of this Executive Order.

**3.12. Personal Care, Grooming, and Tattoo Businesses.**

- a. Face Coverings. Unless an exception applies:
- Personal Care, Grooming, and Tattoo Businesses must have workers wear Face Coverings at all times.
  - In addition, the business must have all Guests wear Face Coverings when they are inside the establishment, unless they are receiving a facial treatment, shave, or other services on a part of the head which the Face Covering covers or by which the Face Covering is secured.
- b. Requirements. While this Executive Order is in effect, all open Personal Care, Grooming, and Tattoo Businesses must do all of the following:
1. Limit Guests inside the store to Emergency Maximum Occupancy. Under this Executive Order, the Emergency Maximum Occupancy for a Personal Care,



Grooming, and Tattoo Business is the lowest number produced by applying the following two tests:

- a. Overall. Limit the number of Guests in the store to one hundred percent (100%) of stated fire capacity (or, for spaces without a stated fire capacity, no more than twenty-four (24) Guests for every one thousand (1000) square feet of the location's total square footage, including the parts of the location that are not accessible to Guests).
  - b. Social Distancing Required. Limit the number of Guests in the store so that Guests can stay six (6) feet apart.
2. Follow the additional health and safety measures in Appendix H of this Executive Order.

**3.13. Pools.**

- a. Requirements. While this Executive Order is in effect, all open indoor and outdoor pool facilities (whether standalone or part of other facilities) must do all of the following:
  1. Outdoor Pools. The facility must limit Guests in the pool to no more than one hundred percent (100%) of the maximum occupancy as determined by fire code (or, when fire code number is not known, twenty-four (24) Guests per one thousand (1000) square feet in deck areas, wading pools and splash pads, and in the water).
  2. Indoor Pools. The facility must limit Guests in the pool to no more than seventy-five (75%) of maximum occupancy as determined by fire code (or, when fire code number is not known, eighteen (18) Guests per one thousand (1000) square feet in deck areas, wading pools, splash pads, and in the water).
  3. Events with Spectators. The capacity restrictions for facilities in Subsection 3.2 above, not the capacity restrictions in Subsections 3.13(a)(1)-(2) above, apply to Pools whenever they host a meet or other event with spectators.
  4. Follow the Core Signage, Screening, and Sanitation Requirements as defined in this Executive Order.
- b. Establishments that are not Amusement Parks and offer waterslides over fifteen (15) feet in height must abide, for each waterslide, by the occupancy restrictions for pools stated in this Section.
- c. This Subsection applies only to shared pools in commercial settings or at residential complexes. It does not apply to family pools at people's homes.

**3.14. Restaurants.**

- a. Face Coverings. Unless an exception applies:
  - Restaurants must have all workers wear Face Coverings.
  - In addition, Restaurants must have all Guests wear Face Coverings (including at their table) when they are not actively drinking or eating.
- b. May Open for On-Premises Service. During the effective period of this Executive Order, Restaurants may allow on-premises consumption of food and beverages. Restaurants must meet the sanitation requirements of this Section even if they are open only for take-out or delivery service.
- c. Capacity Restrictions. While this Executive Order is in effect, all open Restaurants must limit Guests in indoor and outdoor seating areas to Emergency Maximum Occupancy. Under this Executive Order, the Emergency Maximum Occupancy for a restaurant is the lowest number produced by applying the following tests:



1. Indoor Areas. Limit the number of Guests in the indoor dining areas of the restaurant to seventy-five percent (75%) of stated fire capacity. For rooms or spaces without a stated fire capacity, the limit on Guests is eighteen (18) per one thousand (1000) square feet of the location's total square footage, including the parts of the location that are not accessible to Guests, rounded up.
  2. Outdoor Areas. Limit the number of Guests in the outdoor dining areas of the restaurant to one hundred percent (100%) of stated fire capacity. For rooms or spaces without a stated fire capacity, the limit on Guests is twenty-four (24) per one thousand (1000) square feet of the location's total square footage, including the parts of the location that are not accessible to Guests, rounded up.
  3. Social Distancing Required. Limit the number of Guests in the space so that groups can stay six (6) feet apart.
  - d. Private Functions. Any meeting or function held in a private room in a Restaurant is covered by the capacity and other restrictions stated above in Subsection 3.8 of this Executive Order ("Meeting Spaces, Conference Centers, and Reception Venues").
  - e. Additional Health and Safety Restrictions. In addition, while this Executive Order is in effect, all open Restaurants must comply with the additional health and safety measures in Appendix I to this Executive Order.
  - f. Essential Business. A Restaurant that operates consistent with the terms of this Subsection of this Executive Order shall continue to be considered an "Essential Business" for the purpose of N.C. Sess. L. 2020-03, Sec. 4.14(a) to the extent that COVID-19-related claims are made against the restaurant.
  - g. Other. Breweries, wineries, and distilleries are subject to the same restrictions as Restaurants under this Executive Order.
- 3.15. Retail Businesses.
- a. Face Coverings. Unless an exception applies:
    - Retail Businesses must have all workers wear Face Coverings.
    - In addition, Retail Businesses must have all Guests wear Face Coverings when they are inside the establishment.
  - b. Requirements for Retail Businesses. While this Executive Order is in effect, all open Retail Businesses must do all of the following.
    1. Limit Guests inside the store to Emergency Maximum Occupancy. Under this Executive Order, the Emergency Maximum Occupancy for a Retail Business is the lowest number produced by applying the following two tests:
      - a. Limit the number of Guests in the store to one hundred (100%) of stated fire capacity (or, for spaces without a stated fire capacity, no more than twenty-four (24) Guests for every one thousand (1000) square feet of the location's total square footage, including the parts of the location that are not accessible to Guests).
      - b. Limit the number of Guests in the store so that everyone can stay six (6) feet apart.
    2. Mark six (6) feet of spacing in lines at point of sale and in other high-traffic areas for Guests, such as at deli counters and near high-demand products.
    3. Follow the Core Signage, Screening, and Sanitation Requirements as defined in this Executive Order.

**3.16. Transportation.**

All workers and riders on public or private transportation regulated by the State of North Carolina, as well as all people in North Carolina airports, bus and train stations or stops, must wear Face Coverings at all times, unless an exception applies. This provision does not apply to people traveling alone with household members or friends in their personal vehicles, but does apply to ride-shares, cabs, vans, and shuttles, even if the vehicles are privately owned. Guests may be removed from or denied entry to public transportation if they refuse to wear a Face Covering.

**3.17. Workplaces in Agriculture, Construction, and Manufacturing.**

Social distancing is inherently difficult where multiple workers are together in manufacturing settings, at construction sites, and in migrant farm, other farm, and agricultural settings. Therefore, in businesses or operations within North American Industry Classification System ("NAICS") sectors 311 to 339 (manufacturing), 236 to 238 (construction), and 111, 112, 1151, and 1152 (agriculture), all workers not participating in a respiratory protection program must wear Face Coverings when they are either within six (6) feet of another person or indoors. Notwithstanding the above, workers may remove their Face Covering if an exception applies, if they become overheated, or if they eat and drink while working.

**Section 4. Overnight Restrictions.**

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

The restrictions on late night service of alcoholic beverages in Executive Order No. 195 are rescinded as of the effective date of this Executive Order.

**Section 5. Mass Gatherings.**

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

**5.1. Prohibition.** Mass Gatherings are prohibited. "Mass Gathering" means an event or convening which is in a category not otherwise covered by this Executive Order, is not excepted by the following provisions of this Executive Order, and brings together more than fifty (50) people indoors or more than one hundred (100) people outdoors at the same time in a single confined indoor or outdoor space. In publicly accessible indoor facilities, the Mass Gathering limit applies per room of the facility.

At a park, beach, or trail, or at outdoor events such as parades, running races or festivals, the outdoor Mass Gathering limit of one hundred (100) people applies to each group of people that may gather together.

**5.2. Exceptions from Prohibition on Mass Gatherings.** Notwithstanding the Mass Gathering limit above:

- a. The prohibition on Mass Gatherings does not apply to any of the restricted businesses and operations identified in Section 3 of this Executive Order, except as specifically stated above, because in those situations, transmission of COVID-19 will be controlled through the measures specifically tailored for each situation listed in those Sections. The prohibition on Mass Gatherings and the capacity limits in Section 3 generally do not apply to educational institutions or government operations. The capacity limits in Section 3.2 of this Executive Order, however, apply to educational institutions and government operations.
- b. The prohibition on Mass Gatherings does not include gatherings for health and safety, to look for and obtain goods and services, for work, or for receiving governmental services. A Mass Gathering does not include normal operations at airports, bus and train stations or stops, medical facilities, libraries, shopping malls, and shopping centers. However, in those settings, people must follow the Recommendations to

Promote Social Distancing and Reduce Transmission as much as possible, and they should circulate within the space so that there is minimal contact between people.

- 5.3. **Drive-Ins.** Events are not prohibited Mass Gatherings if the participants all stay within their vehicle, such as at a drive-in movie theater. Drive-in events are also not subject to the capacity limitations specified herein in Sections 3 and 6 of this Executive Order, provided that all participants stay in their vehicle, except to enter, leave, use amenities, visit the restroom, and obtain food or drink.

**Section 6. Additional Restrictions for Larger Venues.**

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

Indoor facilities with seating capacity greater than five thousand (5,000) and outdoor facilities with seating capacity greater than ten thousand (10,000) must take the following additional measures.

- 6.1 **Limiting Crowding in Concourses.** The facility operator must have staff direct or monitor the flow of Guests through common spaces to maintain social distancing as Guests enter the arena, leave the arena, or visit concession stands. The operator must also establish a guest flow plan that limits people massing together throughout the facility and when they are entering or exiting the facility.

- 6.2 **Socially Distanced Seating Required.** The establishment must use assigned seats as follows:

- a. All events must be ticketed. No tickets shall be sold for “standing room only” or “general admission.”
- b. The facility operator must, through the use of assigned seating, ensure that each group of Guests attending the event is actually physically separated by six (6) feet from each Guest in each other group.
- c. This includes not only separating each Guest group horizontally within a row, but also separating Guest groups vertically between rows so that no person has someone from another group within six (6) feet in front or behind them.
- d. The facility operator must have staff periodically monitor crowds to ensure that Guests do not take seats other than their assigned seats.

In this Subsection, a “group” of spectators means a set of friends or family members who bought tickets together and came into the event venue together.

**Section 7. Miscellaneous Provisions.**

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

- 7.1. **Statewide Standing Order for COVID-19 Testing.** In order to further protect the public health by providing greater access to COVID-19 testing, the undersigned orders the State Health Director, in addition to and in accordance with her powers set out in N.C. Gen. Stat. Chapter 130A, to issue any statewide standing order needed in her medical judgment that would allow individuals who meet NCDHHS criteria for testing to access and undergo testing for COVID-19, subject to the terms of the standing order. This standing order may continue for the duration of the State of Emergency.

- 7.2. **School and Health Officials to Continue Efforts.** NCDHHS, the North Carolina Department of Public Instruction, and the North Carolina State Board of Education are directed to continue to work together during this State of Emergency to maintain and implement measures to provide for the health, nutrition, safety, educational needs, and well-being of children being taught by remote learning.

- 7.3. **Effect on Local Emergency Management Orders.**

- a. **Most of the Restrictions in This Executive Order Are Minimum Requirements, And Local Governments Can Impose Greater Restrictions.** The undersigned recognizes that the impact of COVID-19 has been and will likely continue to be different in different

parts of North Carolina. Over the course of the COVID-19 emergency in North Carolina, COVID-19 outbreaks have occurred, at different times, in urban and rural areas; in coastal areas, the piedmont, and the mountains; and in a variety of employment and living settings. As such, the undersigned acknowledges that counties and cities may deem it necessary to adopt ordinances and issue state of emergency declarations which impose restrictions or prohibitions to the extent authorized under North Carolina law, such as on the activity of people and businesses, to a greater degree than in this Executive Order. To that end, nothing herein, except where specifically stated below in Subsections 7.3(b) and 7.3(c), is intended to limit or prohibit counties and cities in North Carolina from enacting ordinances and issuing state of emergency declarations which impose greater restrictions or prohibitions to the extent authorized under North Carolina law.

- b. Local Restrictions Cannot Restrict State or Federal Government Operations. Notwithstanding Subsection 7.3(a) above, no county or city ordinance or declaration shall have the effect of restricting or prohibiting governmental operations of the State or the United States.
  - c. Local Restrictions Cannot Set Different Retail Requirements. Notwithstanding Subsection 7.3(a) above, in an effort to create uniformity across the state for Retail Businesses that may continue to operate, the undersigned amends all local prohibitions and restrictions imposed under any local state of emergency declarations to remove any language that sets a different maximum occupancy standard for Retail Businesses or otherwise directly conflicts with Section 6.2(a)(i) of Executive Order No. 163, which is incorporated into this Executive Order by Subsection 3.15 above. The undersigned also hereby prohibits during the pendency of this Executive Order the adoption of any prohibitions and restrictions under any local state of emergency declarations that set a different maximum occupancy standard for Retail Businesses or otherwise directly conflict with Section 6.2(a)(i) of Executive Order No. 163.
  - d. Local Restrictions Cannot Prevent COVID-19 Testing. To ensure that COVID-19 testing is available to the maximum extent possible, and to create certainty and uniformity across the state for businesses and operations that are providing this valuable testing, the undersigned specifically prohibits all local prohibitions and restrictions that would prevent or restrict businesses or operations from providing COVID-19 testing or would prevent or restrict businesses or operations from advertising COVID-19 testing services that they are providing to the public. This preemption includes, but is not limited to, building permits, signage restrictions, and zoning requirements. However, the preemption provided by this Section is available only to COVID-19 testing sites that are operated in accordance with state and federal law and in cooperation with the NCDHHS or a local public health department.
  - e. Local Restrictions Cannot Prevent COVID-19 Vaccine Administration. To ensure that COVID-19 vaccines are available to the maximum extent possible, and to create certainty and uniformity across the state for businesses and operations that are providing this valuable service, the undersigned specifically prohibits all local prohibitions and restrictions that would prevent or restrict businesses or operations from providing COVID-19 vaccines or would prevent or restrict businesses or operations from advertising COVID-19 vaccines that they are providing to the public. This preemption includes, but is not limited to, building permits, signage restrictions and zoning requirements. However, the preemption provided by this Section is available only to COVID-19 vaccination sites that are operated in accordance with state and federal law and in cooperation with the NCDHHS or a local public health department.
- 7.4. Previous Executive Orders. This Executive Order amends, restates, and replaces Executive Order Nos. 141, 153, 162, 163, 169, 170, 176, 180, 181, 188, 189, and 195 in full, except where Subsection 3.4(b) of this Executive Order incorporates certain requirements of Executive Order No. 141. Those incorporated provisions of Executive Order No. 141 are extended for

the duration of this Executive Order, including any extensions or amendments of this Executive Order.

**Section 8. Extension of Price Gouging Period.**

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

Pursuant to N.C. Gen. Stat. § 166A-19.23, the undersigned extends the prohibition against excessive pricing, as provided in N.C. Gen. Stat. §§ 75-37 and 75-38, from the issuance of Executive Order No. 116 through 5:00 pm on April 30, 2021.

The undersigned further hereby encourages the North Carolina Attorney General to use all resources available to monitor reports of abusive trade practices towards consumers and make readily available opportunities to report to the public any price gouging and unfair or deceptive trade practices under Chapter 75 of the North Carolina General Statutes.

**Section 9. No Private Right of Action.**

This Executive Order is not intended to create, and does not create, any individual right, privilege, or benefit, whether substantive or procedural, enforceable at law or in equity by any party against the State of North Carolina, its agencies, departments, political subdivisions, or other entities, or any officers, employees, or agents thereof, or any emergency management worker (as defined in N.C. Gen. Stat. § 166A-19.60) or any other person.

**Section 10. Savings Clause.**

If any provision of this Executive Order or its application to any person or circumstances is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order, which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

**Section 11. Distribution.**

I hereby order that this Executive Order be: (1) distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (2) promptly filed with the Secretary of the North Carolina Department of Public Safety, the Secretary of State, and the superior court clerks in the counties to which it applies, unless the circumstances of the State of Emergency would prevent or impede such filing; and (3) distributed to others as necessary to ensure proper implementation of this Executive Order.

**Section 12. Enforcement.**

- 12.1. Pursuant to N.C. Gen. Stat. § 166A-19.30(a)(2), the provisions of this Executive Order shall be enforced by state and local law enforcement officers.
- 12.2. A violation of this Executive Order may be subject to prosecution pursuant to N.C. Gen. Stat. § 166A-19.30(d), and is punishable as a Class 2 misdemeanor in accordance with N.C. Gen. Stat. § 14-288.20A. Local governments are specifically authorized and encouraged to adopt ordinances that provide law enforcement officials with flexibility to use civil, rather than criminal, penalties to enforce violations of this Executive Order.
- 12.3. Nothing in this Executive Order shall be construed to preempt or overrule a court order regarding an individual's conduct (e.g., a Domestic Violence Protection Order or similar orders limiting an individual's access to a particular place).

**Section 13. Effective Date.**

This Executive Order is effective March 26, 2021, at 5:00 pm. This Executive Order shall remain in effect through 5:00 pm on April 30, 2021 unless repealed, replaced, or rescinded by another applicable Executive Order. An Executive Order rescinding the Declaration of the State of Emergency will automatically rescind this Executive Order.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 23<sup>rd</sup> day of March in the year of our Lord two thousand and twenty-one.

  
\_\_\_\_\_  
Roy Cooper  
Governor

ATTEST:

  
\_\_\_\_\_  
Elaine F. Marshall  
Secretary of State



**APPENDIX A: Core Signage, Screening, and Sanitation Requirements**

The following are the “Core Signage, Screening, and Sanitation Requirements”:

1. Post the Emergency Maximum Occupancy in a noticeable place.
2. Post signage reminding Guests and workers about social distancing (staying at least six (6) feet away from others) and requesting that people who have been symptomatic with fever and/or cough not enter.
3. Immediately isolate and remove sick workers.
4. Perform frequent and routine environmental cleaning and disinfection of high-touch areas with an EPA-approved disinfectant for SARS-CoV-2 (the virus that causes COVID-19).

**APPENDIX B: Additional Health and Safety Requirements for Amusement Parks**

1. Spread out waiting lines for rides, amusements, and other areas where people may congregate or wait, with each group separated by six (6) feet.
2. The operator must mark six (6) feet of spacing along the line and in waiting areas for rides and amusements and other areas where people may congregate or wait.
3. Establish a Guest flow plan that limits people massing together throughout the park and when they are entering or exiting the park.
4. Increase indoor disinfection of high-touch surfaces during high customer density times.
5. Provide alcohol-based hand sanitizer (with at least 60% alcohol) at the entrance and at other areas throughout the premises as needed. Promote frequent use of hand-washing and hand sanitizer for workers and Guests.
6. Follow the restrictions set out in Subsection 3.14 and Appendix I of this Executive Order for any food, beverage, and retail service.
7. Follow the Core Signage, Screening and Sanitation Requirements as defined in Appendix A this Executive Order.



**APPENDIX C: Additional Health and Safety Requirements for Bars, Night Spots, and Arenas and All Other Facilities Covered by Subsection 3.2**

1. Mark six (6) feet of spacing in lines at high-traffic areas for Guests.
2. Promote frequent use of hand-washing and hand sanitizer for waitstaff and food service staff throughout the shift and upon reporting to work. Hand-washing must at least meet the requirements specified in the North Carolina Food Code Manual.
3. Provide alcohol-based hand sanitizer (with at least 60% alcohol) at the entrance and at other areas throughout the premises as needed. Promote frequent use of hand-washing and hand sanitizer for workers and Guests.
4. Increase disinfection during peak times or high Guest density times, and disinfect all shared objects (e.g., payment terminals, tables, countertops/bars, receipt trays, and reusable menus) between use.
5. The facility must arrange the space so that Guests sitting at a counter or table are not within six (6) feet of any Guests sitting at another counter or table. Moreover, each group of Guests sitting at a counter should be separated from other groups by six (6) feet. Entertainers also must stay at least six (6) feet away from any Guest. People sitting at a table need not be members of the same household and do not need to stay six (6) feet apart. Moreover, this Executive Order does not require waitstaff to stay six (6) feet away from Guests.
6. Follow all applicable NCDHHS guidelines.
7. Follow the restrictions set out in Subsection 3.14 and Appendix I of this Executive Order for any food or beverage service.
8. Follow the Core Signage, Screening and Sanitation Requirements as defined in Appendix A to this Executive Order.

**APPENDIX D: Additional Health and Safety Requirements for Child  
Care Facilities**

1. Immediately isolate sick workers and children from the rest of the facility and send them home.
2. Have a plan to work with local health departments to identify close contacts of confirmed cases in the child care setting.
3. Follow all applicable NCDHHS guidelines.
4. Follow the Core Signage, Screening, and Sanitation Requirements as defined in Appendix A to this Executive Order.

**APPENDIX E: Additional Health and Safety Requirements for Fitness and Activity Facilities**

1. Promote frequent use of hand-washing and hand sanitizer for workers and Guests. Require workers to wash hands immediately upon reporting to work, after contact with Guests, after performing cleaning and disinfecting activities, and frequently throughout the day.
2. Disinfect all shared equipment between users with an EPA-approved disinfectant for SARS-CoV-2 (the virus that causes COVID-19). Allow the disinfectant to sit for the adequate amount of time stated by the manufacturer. If Guests are to clean equipment, the establishment must provide instructions on how to properly disinfect equipment and on the adequate amount of time that the disinfectant must sit to be effective.
3. Increase disinfection during peak times or high-population-density times.
4. Mark six (6) feet of spacing in lines at point of sale and in other high-traffic areas for Guests.
5. Post the Emergency Maximum Occupancy of any room or other enclosed space at the door to that space.
6. Take the following Social Distancing Measures.
  - a. Spread Out Guests and Equipment. Operators of Fitness and Physical Activity Facilities must:
    - i. For activities involving Guests spread out among fixed equipment or lanes, tape off or move the equipment, or restrict access to lanes, so that the Guests conducting the exercise activity are at least six (6) feet apart.
    - ii. For group classes or group activities, ensure that all Guests are spaced at least six (6) feet apart. Instructors may come within six (6) feet of students for brief periods of time (less than 15 minutes).
  - b. Seating in Waiting Areas. For Guests waiting to take their turn in the activity, operators must space out any seating so that Guests can be socially distanced and stay six (6) feet apart from each other.
7. Follow all applicable NCDHHS guidelines.
8. Follow the restrictions set out in Sections 3.14 and Appendix I of this Executive Order for any food and beverage service.
9. Follow the Core Signage, Screening and Sanitation Requirements as defined in Appendix A to this Executive Order.

**APPENDIX F: Additional Health and Safety Requirements for Meeting Spaces,  
Conference Centers, and Reception Venues**

1. Mark six (6) feet of spacing in lines at point of sale and in other high-traffic areas for Guests.
2. Provide alcohol-based hand sanitizer (with at least 60% alcohol) at the entrance and at other areas throughout the premises as needed. Promote frequent use of hand-washing and hand sanitizer for workers and Guests.
3. Increase disinfection during peak times or high Guest density times, and disinfect all shared objects (e.g., payment terminals, tables, countertops/bars, receipt trays, condiment holders) between use.
4. The facility must arrange the space so that Guests sitting at a counter or table are not within six (6) feet of any Guests sitting at another counter or table. Moreover, each group of Guests sitting at a counter should be separated from other groups by six (6) feet. Entertainers also must stay at least six (6) feet away from any Guest. People sitting at a table need not be members of the same household and do not need to stay six (6) feet apart. Moreover, this Executive Order does not require waitstaff to stay six (6) feet away from Guests.
5. Follow all applicable NCDHHS guidelines.
6. Follow the restrictions set out in Subsection 3.14 and Appendix I of this Executive Order for any food or beverage service.
7. Follow the Core Signage, Screening and Sanitation Requirements as defined in Appendix A to this Executive Order.

**APPENDIX G: Additional Health and Safety Requirements for Movie Theaters and Gaming**

1. Mark six (6) feet of spacing in lines at point of sale and in other high-traffic areas for Guests.
2. Provide alcohol-based hand sanitizer (with at least 60% alcohol) at the entrance and at other areas throughout the premises as needed. Promote frequent use of hand-washing and hand sanitizer for workers and Guests.
3. Increase disinfection during peak times or high Guest density times, and disinfect all shared objects (e.g., payment terminals, tables, countertops/bars, receipt trays, condiment holders) between use.
4. The facility must arrange the space so that Guests sitting at a counter or table are not within six (6) feet of any Guests sitting at another counter or table. Moreover, each group of Guests sitting at a counter should be separated from other groups by six (6) feet. Entertainers must also stay at least six (6) feet away from any Guest. People sitting at a table need not be members of the same household and do not need to stay six (6) feet apart. Moreover, this Executive Order does not require waitstaff to stay six (6) feet away from Guests.
5. Follow all applicable NCDHHS guidelines.
6. Follow the restrictions set out in Subsection 3.14 and Appendix I of this Executive Order for any food or beverage service.
7. Follow the Core Signage, Screening and Sanitation Requirements as defined in Appendix A to this Executive Order.

**APPENDIX H: Additional Health and Safety Requirements for Personal Care and Grooming Businesses**

1. Arrange seating so that groups of Guests are separated from one another by six (6) feet.
2. Follow the Core Signage, Screening, and Sanitation Requirements as defined in Appendix A of this Executive Order, except for the requirement to have signage remind people about staying six (6) feet apart.
3. Ensure that all equipment that comes into direct personal contact with Guests and all furniture in service areas (such as chairs, capes, and the shampooing area in a barber shop or salon) is completely cleaned and disinfected between each Guest.
4. Mark six (6) feet of spacing in lines at point of sale and in other high-traffic areas for Guests, such as at cash registers and waiting areas.
5. Follow all applicable NCDHHS guidelines.

**APPENDIX I: Additional Health and Safety Requirements for Restaurants**

1. Increase disinfection during peak times or high Guest density times, and disinfect all shared objects (e.g., dining tables, booths, counters, payment terminals, tables, countertops/bars, receipt trays, condiment holders, and reusable menus) between each use.
2. Promote frequent use of hand-washing and hand sanitizer for wait staff and food service staff throughout the shift and upon reporting to work. Hand-washing must at least meet the requirements specified in the North Carolina Food Code Manual.
3. Mark six (6) feet of spacing in lines at high-traffic areas for Guests, such as a cash register or place where Guests wait to be seated at their table.
4. Arrange the Restaurant so that Guests sitting at a counter or table are not within six (6) feet of any Guests sitting at another counter or table. Moreover, each group of Guests sitting at a counter should be separated from other groups by six (6) feet. Entertainers also must stay at least six (6) feet away from any Guest. People sitting at a table need not be members of the same household and do not need to stay six (6) feet apart. Moreover, this Executive Order does not require servers and wait staff to stay six (6) feet away from Guests.
5. Follow all applicable NCDHHS guidelines.
6. Follow the Core Signage, Screening, and Sanitation Requirements as defined in Appendix A of this Executive Order.



# State of North Carolina

**ROY COOPER**  
GOVERNOR

**March 30, 2021**

**EXECUTIVE ORDER NO. 205**

**FURTHER EXTENSION OF AUTHORIZATION OF DELIVERY AND CARRY-OUT  
OF SERVICES AND PRODUCTS AS AN ALTERNATIVE TO ON-SITE  
CONSUMPTION AND RECEIPT**

**WHEREAS**, on March 10, 2020, the undersigned issued Executive Order No. 116, 34 N.C. Reg. 1744-1749 (April 1, 2020), which declared a State of Emergency to coordinate the state's response and protective actions to address the Coronavirus Disease 2019 ("COVID-19") public health emergency and provide for the health, safety, and welfare of residents and visitors located in North Carolina; and

**WHEREAS**, on March 11, 2020, the World Health Organization declared COVID-19 a global pandemic; and

**WHEREAS**, on March 13, 2020, the President of the United States issued an emergency declaration for all states, tribes, territories, and the District of Columbia, retroactive to March 1, 2020, and the President declared that the COVID-19 pandemic in the United States constitutes a national emergency; and

**WHEREAS**, on March 25, 2020, the President approved a Major Disaster Declaration, FEMA-4487-DR, for the State of North Carolina; and

**WHEREAS**, in responding to the COVID-19 pandemic, and for the purpose of protecting the health, safety, and welfare of the people of North Carolina, the undersigned has issued Executive Order Nos. 116-122, 124-125, 129-131, 133-136, 138-144, 146-153, 155-157, 161-165, 169-173, 176-177, 180-181, 183-185, 188-193, 195, 197-198, 200, and 204; and

**WHEREAS**, the undersigned has taken a science and data-driven approach to implementing public health measures to curb the spread of the virus and to advance the state's economy in a safe and effective way, which is in the best interests of all North Carolinians; and

**WHEREAS**, on March 23, 2021, in light of sustained improvement in key COVID-19 metrics, and the state's accelerating vaccination efforts, the undersigned issued Executive Order No. 204, which loosened certain restrictions on businesses and gatherings; and

**WHEREAS**, due to the continuing dangers posed by COVID-19, bars and other establishments that sell alcohol must continue to operate at reduced capacity and are subject to Face Covering and social distancing requirements between patrons; and



Benefits of Take-Out and Delivery During the Pandemic

**WHEREAS**, settings that are indoor, where people gather, remain stationary for an extended period of time, and cannot consistently wear a Face Covering have an increased risk of viral spread; and

**WHEREAS**, settings where there is increased respiratory effort — for example, conversations being held over music or background noise, singing, and dancing — increase the risk of viral spread; and

**WHEREAS**, these settings include restaurants, hotels, private clubs, private bars, and distilleries that sell mixed beverages; and

**WHEREAS**, in light of the risks of transmission presented by the sustained, maskless interactions inherent in indoor dining and drinking at restaurants, bars, and similar establishments, it reduces the risk of viral spread to allow delivery and take-out service; and

**WHEREAS**, for these reasons, restrictions should be lifted, wherever feasible and appropriate, to allow goods and services to be delivered to one's home; and

**WHEREAS**, for these reasons, the undersigned has determined that the Secretary of the North Carolina Health and Human Services requires authority to temporarily waive the enforcement of any legal or regulatory constraints that would prevent or impair the ability of open establishments to provide curbside pickup or delivery of health care goods and services; and

Benefits of Allowing To-Go or Delivery Sales for Mixed Beverages

**WHEREAS**, allowing delivery of food and drinks decreases customer-to-customer interactions between people who are not members of the same household and significantly reduces customer-to-employee interactions, thereby significantly reducing the likelihood of viral spread; and

**WHEREAS**, allowing delivery of mixed beverage drinks to homes, as is done for other goods and services, can reduce the risk of viral spread; and

**WHEREAS**, during the pandemic, public health will benefit if it is easier for people to gather at home, reducing the number of people coming together in bars, restaurants, hotels, private clubs, and distilleries; and

Economic Benefits of Mixed Beverage Sales

**WHEREAS**, the sale of alcoholic beverages generates a substantial percentage of revenue for many restaurants and bars in the state; and

**WHEREAS**, bars and restaurants are currently limited in how they may sell mixed beverages, and thereby are denied a much-needed source of revenue during the COVID-19 pandemic; and

**WHEREAS**, the undersigned's administration has taken action to alleviate the financial hardship borne by bars and restaurants in the COVID-19 pandemic, including through the implementation of grant and loan programs, and mortgage and utility relief for these impacted businesses; and

**WHEREAS**, the undersigned has determined that enabling the sale of mixed beverages for off-premise consumption ("to-go" sales) will provide an additional source of revenue for restaurants and bars in the state, that may offset any reduction in sales that may be caused by the reduced occupancy limits under Executive Order No. 204; and

**WHEREAS**, since the issuance of Executive Order No. 183, many bars have implemented to-go sales of mixed beverages and have benefitted from the additional source of revenue afforded by that order; and

**WHEREAS**, the undersigned extended the measures of Executive Order No. 183 through March 31, 2021 under Executive Order No. 190; and

**WHEREAS**, for the reasons stated herein and in Executive Order Nos. 183 and 190, the undersigned finds it reasonable and necessary to continue the measures of Executive Order No. 183 through April 30, 2021; and

Flexibility for the North Carolina Alcoholic Beverage Control Commission to Permit To-Go Sales of Mixed Beverages

**WHEREAS**, the undersigned has determined that it is in the best interests of all North Carolinians to have additional goods and services available via home delivery or to-go orders; and

**WHEREAS**, enabling these channels to sell mixed beverages may reduce crowding in bars, restaurants, and other open establishments; and

**WHEREAS**, the undersigned has determined that by opening up these additional channels of commerce, crowds may be limited in open establishments, abating a need that otherwise might arise to increase restrictions on bars, restaurants, and other similar businesses; and

**WHEREAS**, the North Carolina Alcoholic Beverage Control Commission ("ABC Commission") is charged under state law with regulating the access and availability of beer, wine, and mixed beverages; and

**WHEREAS**, the ABC Commission has the requisite experience and ability to monitor the sale, service, and distribution of alcoholic beverages in the state; and

**WHEREAS**, accordingly, the ABC Commission is best equipped to devise and implement all necessary terms and conditions to ensure that bars and restaurants engage in the sale of mixed beverages to-go in a safe and effective manner; and

**WHEREAS**, for the reasons stated above, the undersigned has determined that the Chair of the ABC Commission should have authority to temporarily waive the enforcement of any legal or regulatory constraints that would prevent or impair the sale of mixed beverages for off-premise consumption; and

**WHEREAS**, for avoidance of doubt, the terms of this Executive Order and the delegation of authority to the Chair of the ABC Commission herein do not permit unsealed containers of alcoholic beverages in vehicles, and do not permit the sale of mixed beverages to any individual who is under the age of twenty-one (21) or to any individual who is visibly intoxicated; and

Statutory Authority and Determinations

**WHEREAS**, Executive Order No. 116 invoked the Emergency Management Act, and authorizes the undersigned to exercise the powers and duties set forth therein to direct and aid in the response to, recovery from, and mitigation against emergencies; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.10(b)(2), the undersigned may make, amend, or rescind necessary orders, rules, and regulations within the limits of the authority conferred upon the Governor in the Emergency Management Act; and

**WHEREAS**, N.C. Gen. Stat. § 166A-19.10(b)(3) authorizes and empowers the undersigned to delegate gubernatorial vested authority under the Emergency Management Act and to provide for the sub-delegation of that authority; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(1), the undersigned may utilize all available state resources as reasonably necessary to cope with an emergency, including the transfer and direction of personnel or functions of state agencies or units thereof for the purpose of performing or facilitating emergency services; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(2), the undersigned may take such action and give such directions to state and local law enforcement officers and agencies as may be reasonable and necessary for the purpose of securing compliance with the provisions of the Emergency Management Act and with the orders, rules, and regulations made thereunder; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.30(b)(2), the undersigned, with the concurrence of the Council of State, may establish a system of economic controls over all resources, materials, and services, including shelter and rents; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.30(b)(4), the undersigned, with concurrence of the Council of State, may waive a provision of any regulation or ordinance of a state agency or political subdivision which restricts the immediate relief of human suffering; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.30(b)(5), the undersigned, with concurrence of the Council of State, may perform and exercise such other powers, functions, and duties as are necessary to promote the safety and protection of the civilian population; and

**WHEREAS**, the undersigned has sought and obtained concurrence from the Council of State consistent with the Governor's emergency powers authority in N.C. Gen. Stat. § 166A-19.30.

**NOW, THEREFORE**, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, and for the reasons stated above and in Executive Order Nos. 183 and 190, **IT IS ORDERED**:

**Section 1. Extension of Executive Order No. 183.**

Executive Order No. 183 shall remain in effect until 5:00 pm on April 30, 2021. The effective date provision of Executive Order No. 183 is amended to have that order continue in effect through the above-listed time and date.

**Section 2. No Private Right of Action.**

This Executive Order is not intended to create, and does not create, any individual right, privilege, or benefit, whether substantive or procedural, enforceable at law or in equity by any party against the State of North Carolina, its agencies, departments, political subdivisions, or other entities, or any officers, employees, or agents thereof, or any emergency management worker (as defined in N.C. Gen. Stat. § 166A-19.60) or any other person.

**Section 3. Savings Clause.**

If any provision of this Executive Order or its application to any person or circumstances is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order, which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

**Section 4. Distribution.**

I hereby order that this Executive Order be: (1) distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (2) promptly filed with the Secretary of the North Carolina Department of Public Safety, the Secretary of State, and the superior court clerks in the counties to which it applies, unless the circumstances of the State of Emergency would prevent or impede such filing; and (3) distributed to others as necessary to ensure proper implementation of this Executive Order.

**Section 5. Enforcement.**

- A. Pursuant to N.C. Gen. Stat. § 166A-19.30(a)(2), the provisions of this Executive Order shall be enforced by state and local law enforcement officers.

- B. A violation of this Executive Order may be subject to prosecution pursuant to N.C. Gen. Stat. § 166A-19.30(d), and is punishable as a Class 2 misdemeanor in accordance with N.C. Gen. Stat. § 14-288.20A.
- C. This Executive Order does not limit Alcohol Law Enforcement's existing authority to take any action necessary (criminal or administrative through the ABC Commission) to enforce the provisions of this Executive Order or any waivers or modifications for sales and deliveries of alcoholic beverages prescribed by the ABC Commission.
- D. Nothing in this Executive Order shall be construed to preempt or overrule a court order regarding an individual's conduct (e.g., a Domestic Violence Protection Order or similar orders limiting an individual's access to a particular place).

**Section 6. Effective Date.**

This Executive Order is effective March 31, 2021, at 5:00 pm. This Executive Order shall remain in effect through April 30, 2021 at 5:00 pm, unless repealed, replaced, or rescinded by another applicable Executive Order. An Executive Order rescinding the Declaration of the State of Emergency will automatically rescind this Executive Order.

**IN WITNESS WHEREOF**, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 30<sup>th</sup> day of March in the year of our Lord two thousand and twenty one.

  
\_\_\_\_\_  
Roy Cooper  
Governor

**ATTEST:**

  
\_\_\_\_\_  
Elaine F. Marshall  
Secretary of State





# State of North Carolina

**ROY COOPER**  
GOVERNOR

**March 30, 2021**

**EXECUTIVE ORDER NO. 206**

**EXTENDING ASSISTANCE FOR NORTH CAROLINIANS AT RISK OF EVICTION**

The COVID-19 Public Health Emergency

**WHEREAS**, on March 10, 2020, the undersigned issued Executive Order No. 116, 34 N.C. Reg. 1744-1749 (April 1, 2020), which declared a State of Emergency to coordinate the state's response and protective actions to address the Coronavirus Disease 2019 ("COVID-19") public health emergency and provide for the health, safety, and welfare of residents and visitors located in North Carolina; and

**WHEREAS**, on March 11, 2020, the World Health Organization declared COVID-19 a global pandemic; and

**WHEREAS**, on March 13, 2020, the President of the United States issued an emergency declaration for all states, tribes, territories, and the District of Columbia, retroactive to March 1, 2020, and the President declared that the COVID-19 pandemic in the United States constitutes a national emergency; and

**WHEREAS**, on March 25, 2020, the President approved a Major Disaster Declaration, FEMA-4487-DR, for the State of North Carolina; and

**WHEREAS**, in responding to the COVID-19 pandemic, and for the purpose of protecting the health, safety, and welfare of the people of North Carolina, the undersigned has issued Executive Order Nos. 116-122, 124-125, 129-131, 133-136, 138-144, 146-153, 155-157, 161-165, 169-177, 180-181, 183-185, 188-193, 195, 197-198, 200, and 204-205; and

**WHEREAS**, the undersigned has taken a science and data-driven approach to implementing public health measures to curb the spread of the virus and to advance the state's economy in a safe and effective way, which is in the best interests of all North Carolinians; and

**WHEREAS**, recent improvements in key COVID-19 metrics prompted the undersigned to relax certain restrictions on businesses and gatherings, most recently in Executive Order No. 204; and

**WHEREAS**, however, because the state's key COVID-19 metrics remain at elevated levels, and because of the potential impact of the presence of new variants of the virus in North Carolina, which may be more transmissible and may result in increased disease severity, the lifting of restrictions necessarily must continue to be undertaken in a targeted and phased manner to best protect the health and safety of all North Carolinians, with particular caution given to loosening restrictions in high-risk settings; and

**WHEREAS**, despite improvements in key COVID-19 metrics, the virus remains a serious threat to North Carolina communities, as evidenced by the fact that between February 28, 2021 and March 13, 2021, every county in the state is rated to have at least a “significant” rate of COVID-19 community spread, according to the County Alert System developed by the North Carolina Department of Health and Human Services (“NCDHHS”), which evaluates a county’s COVID-19 case counts, percent positives, and hospital occupancy; and

**WHEREAS**, while the recent changes to the above metrics may provide cause for optimism in the ongoing battle against the virus, the impacts of the new variants of COVID-19, detected in North Carolina and the impact of loosening restrictions in the state remain yet unseen; and

**WHEREAS**, COVID-19 continues to extract an unprecedented toll on human life in North Carolina; and

**WHEREAS**, more than nine hundred twelve thousand (912,000) people in North Carolina have had COVID-19, and more than twelve thousand (12,000) people in North Carolina have died from the disease; and

**WHEREAS**, in light of the continuing dangers posed by COVID-19, it remains necessary to continue the measures of the residential evictions moratorium to protect the lives of North Carolinians, assist the state’s most vulnerable communities, and to avoid further strain on the state’s health care system capacity and other health care resources across the state; and

Residential Eviction Protection in North Carolina: the Centers for Disease Control and Prevention Order and Executive Order No. 171

**WHEREAS**, in addition to its public health consequences, the economic effects of the COVID-19 pandemic continue to broadly impact residential tenants across the country and in the state of North Carolina, many of whom have been unable to timely or fully make their rent payments, thereby facing the risk of eviction; and

**WHEREAS**, residential evictions remove people from their homes, where they are safest during the COVID-19 pandemic, which therefore increases the risk that such people will contract and spread COVID-19; and

**WHEREAS**, many residential evictions leave people homeless, where they are at heightened risk of contracting and spreading COVID-19 either through unsheltered living situations or through relocation to homeless shelters or other congregate living situations, where they face enhanced risk of contracting COVID-19; and

**WHEREAS**, in recognition of the public health threat posed by residential evictions during the pandemic, the Centers for Disease Control and Prevention issued an order, pursuant to 42 U.S.C. § 264 of the Public Health Act and 42 C.F.R. § 70.2, and titled “Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19,” temporarily halting certain residential evictions nationwide, beginning on September 4, 2020, as such order has been subsequently extended and modified (the “CDC Order”); and

**WHEREAS**, on December 27, 2020, the President signed the Consolidated Appropriations Act, 2021, H.R. 133, 116<sup>th</sup> Cong. (2020), which extended the CDC Order through January 31, 2021; and

**WHEREAS**, at the request of the President, on January 29, 2021 the CDC extended its order through March 31, 2021; and

**WHEREAS**, on March 29, 2021, the CDC further extended its Order, with modifications, through June 30, 2021; and

**WHEREAS**, to reaffirm and clarify the protections established by the CDC Order and to ensure accurate and consistent application of the CDC Order across the state, the undersigned issued Executive Order No. 171 to further protect North Carolinians at risk of eviction, from October 30, 2020 through the CDC Order’s original termination date of December 31, 2020; and

**WHEREAS**, the undersigned, with the concurrence of the Council of State, issued Executive Order Nos. 184 and 191, which orders ultimately extended Executive Order No. 171 through March 31, 2021; and

**WHEREAS**, the CDC Order and Executive Order No. 171 do not block evictions of residential tenants for reasons other than nonpayment of rent, interest, late fees, or penalties; and

**WHEREAS**, the CDC Order and Executive Order No. 171 do not relieve any residential tenant from the obligation to pay rent, make housing payments, or comply with any other obligation that the tenant may have under a tenancy, lease or contract, and these orders do not protect tenants from eviction for reasons of criminal activity, threatening the health or safety of other tenants, or violating building codes or other ordinances; and

**WHEREAS**, to ensure the effective execution of the CDC Order, Executive Order No. 171 requires, among other measures, that a landlord provide his or her tenant with a copy of the declaration form required under the CDC Order (the “Declaration”) prior to commencing an eviction action and provide the court with a copy of that Declaration; and

**WHEREAS**, Executive Order No. 171 provides for the modification of residential leases to effectuate certain procedures in the event a tenant’s Declaration is filed with the court, and in the event the landlord decides to contest that Declaration; and

**WHEREAS**, Executive Order No. 171 also extends certain protections to individuals applying for assistance through the statewide Housing Opportunities and Prevention of Evictions Program (“HOPE Program”) who have met the eligibility criteria for assistance under that program but who have not yet received protection from eviction by way of the final stage of that program; and

**WHEREAS**, the undersigned’s administration recognizes the financial impacts of the pandemic may also be felt by some landlords, and, as of the date of this Executive Order, has distributed over \$120 million dollars directly to landlords to cover tenants’ rental payments, and over \$20 million dollars directly to landlords to cover tenants’ utility bills, all through the HOPE Program; and

The Need to Extend Executive Order No. 171

**WHEREAS**, according to the United States Census Bureau’s Household Pulse Survey (“Pulse Survey”) released on March 10, 2021, from data collected February 17, 2021 through March 1, 2021, nearly 81 million adults reported that their household found it somewhat difficult or very difficult to cover usual expenses, including rent or mortgage, food, car payments, medical expenses, or student loans; and

**WHEREAS**, data from the Pulse Survey shows that an estimated 9.5 million adult renters reported that they were not caught up on rent; and

**WHEREAS**, according a report from the Center on Budget and Policy Priorities (“CBPP”), dated March 15, 2021, more than 5 million renters report that they have lost employment income and expect to be evicted soon; and

**WHEREAS**, according to the CBPP’s analysis of the Pulse Survey, the hardship is particularly more taxing on families with children, in that forty-one percent (41%) of adults with children reported difficulties covering usual household expenses, compared to thirty percent (30%) for adults without children, and twenty-eight percent (28%) of adults with children reported that they are not caught up on last month’s rent, compared to twelve percent (12%) among adults not living with anyone under age eighteen (18); and

**WHEREAS**, according to the CBPP’s analysis, this inability to pay rent disproportionately affects communities of color in that thirty-three percent (33%) of Black renters, twenty percent (20%) of Latino renters, and sixteen percent (16%) of Asian renters reported not being caught up on rent, compared to thirteen percent (13%) of White renters; and



**WHEREAS**, many North Carolina households are experiencing the economic hardships felt nationwide; and

**WHEREAS**, for example, since the HOPE program became effective in North Carolina, over forty-five thousand (45,000) individuals have applied for assistance, and of those, thirty-seven thousand (37,000) individuals have received an award through the program, underscoring the significant need for rental assistance and eviction protection across the state during the pandemic; and

**WHEREAS**, according to the Pulse Survey data, collected from February 17, 2021 through March 1, 2021, in North Carolina an estimated one hundred sixty-seven thousand seven hundred and fifty-one (167,751) adults in rental housing reported that they are not caught up on rent; and

**WHEREAS**, according to the Pulse Survey data, collected from February 17, 2021 through March 1, 2021, nearly 2.8 million adults in North Carolina reported that their household found it somewhat difficult or very difficult to cover usual household expenses; and

**WHEREAS**, a January 2021 report by the National Bureau of Economic Research found that “policies that limit evictions are found to reduce COVID-19 infections by 3.8% and reduce deaths by 11%”; and

**WHEREAS**, continuing eviction protections is necessary to prevent additional COVID-19 cases and deaths; and

**WHEREAS**, the undersigned’s administration recognizes that eviction moratoria are not only effective public health measures to control the spread of COVID-19, but that they can also have significant impacts on the economic and socioeconomic realities of many North Carolinians; and

**WHEREAS**, in light of the extension of the CDC Order nationwide, the troubling COVID-19 metrics across the state, and the need for North Carolinians to have a safe and stable place to live, the undersigned finds it reasonable and necessary to continue the protections of Executive Order No. 171 under this Executive Order to protect the neediest North Carolinians from housing loss and housing insecurity; and

**WHEREAS**, the restrictions on evictions extended in this Executive Order shall extend only during the term set out in Executive Order No. 171, as extended by this Executive Order; and

Statutory Authority and Determinations

**WHEREAS**, Executive Order No. 116 invoked the Emergency Management Act, and authorizes the undersigned to exercise the powers and duties set forth therein to direct and aid in the response to, recovery from, and mitigation against emergencies; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.10(b)(2), the undersigned may make, amend, or rescind necessary orders, rules, and regulations within the limits of the authority conferred upon the Governor in the Emergency Management Act; and

**WHEREAS**, N.C. Gen. Stat. § 166A-19.10(b)(3) authorizes and empowers the undersigned to delegate any Gubernatorial vested authority under the Emergency Management Act and to provide for the subdelegation of any authority; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.10(b)(4), the undersigned is authorized to “cooperate and coordinate” with the President of the United States and the heads of department and other agencies of the federal government; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.10(b)(7), the undersigned is authorized and empowered to utilize the services, equipment, supplies, and facilities of political subdivisions, and their officers and personnel are required to cooperate with and extend such services and facilities to the undersigned upon request; and



**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(1), the undersigned may utilize all available state resources as reasonably necessary to cope with an emergency, including the transfer and direction of personnel or functions of state agencies or units thereof for the purpose of performing or facilitating emergency services; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(2), during a Gubernatorially declared State of Emergency, the undersigned has the power to “give such directions to state and local law enforcement officers and agencies as may be reasonable and necessary for the purpose of securing compliance with the provisions of this Article”; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(3), the undersigned may take steps to assure that measures, including the installation of public utilities, are taken when necessary to qualify for temporary housing assistance from the federal government when that assistance is required to protect the public health, welfare, and safety; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.30(b)(2), the undersigned, with the concurrence of the Council of State, may establish a system of economic controls over all resources, materials, and services, including shelter and rents; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.30(b)(4), the undersigned, with the concurrence of the Council of State, may waive a provision of any regulation or ordinance of a state agency or political subdivision which restricts the immediate relief of human suffering; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.30(b)(5), the undersigned, with the concurrence of the Council of State, may perform and exercise such other functions, powers, and duties as are necessary to promote and secure the safety and protection of the civilian population; and

**WHEREAS**, N.C. Gen. Stat. § 166A-19.10(b)(3) further authorizes and empowers the undersigned to delegate Gubernatorial vested authority under the Emergency Management Act and to provide for the sub-delegation of that authority; and

**WHEREAS**, the undersigned has sought and obtained concurrence from the Council of State on those provisions of this Executive Order requiring concurrence consistent with the Governor’s emergency powers authority in N.C. Gen. Stat. § 166A-19.30.

**NOW, THEREFORE**, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, and for the reasons and pursuant to the authority set forth above and in Executive Order Nos. 171, 184, and 191, **IT IS ORDERED:**

**Section 1. Extension of, and Updates to, Executive Order No. 171.**

- A. Executive Order No. 171, as amended herein, shall remain in effect through and including June 30, 2021. The effective date provision of Executive Order No. 171 is amended to continue in effect through the above-listed date.
- B. References to the “CDC Order” in Executive Order No. 171 shall refer to the order as it was extended and modified by the CDC on March 29, 2021.
- C. References to a “Declaration” in Executive Order No. 171 include any written document that qualifies under the CDC Order for use in place of the CDC declaration form.

**Section 2. No Private Right of Action.**

This Executive Order is not intended to create, and does not create, any individual right, privilege, or benefit, whether substantive or procedural, enforceable at law or in equity by any party against the State of North Carolina, its agencies, departments, political subdivisions, or other entities, or any officers, employees, or agents thereof, or any emergency management worker (as defined in N.C. Gen. Stat. § 166A-19.60) or any other person.

**Section 3. Savings Clause and Interpretation.**

- A. If any provision of this Executive Order or its application to any person or circumstances is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order, which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.
- B. The protections stated in this Executive Order are independent from the requirements of the CDC Order and shall be in force regardless of any repeal, rescission, amendment, or administrative interpretation of the CDC Order. If any court without jurisdiction over the State of North Carolina enjoins or otherwise blocks or modifies the CDC Order, in whole or in part, this Executive Order shall continue to apply, and this Executive Order shall continue to provide the protections listed in the CDC Order.

**Section 4. Distribution.**

I hereby order that this Executive Order be: (1) distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (2) promptly filed with the Secretary of the North Carolina Department of Public Safety, the Secretary of State, and the superior court clerks in the counties to which it applies, unless the circumstances of the State of Emergency would prevent or impede such filing; and (3) distributed to others as necessary to ensure proper implementation of this Executive Order.

**Section 5. Enforcement.**

- A. Pursuant to N.C. Gen. Stat. § 166A-19.30(a)(2), the provisions of this Executive Order shall be enforced by state and local law enforcement officers.
- B. A violation of this Executive Order may be subject to prosecution pursuant to N.C. Gen. Stat. § 166A-19.30(d), and is punishable as a Class 2 misdemeanor in accordance with N.C. Gen. Stat. § 14-288.20A.
- C. Nothing in this Executive Order shall be construed to preempt or overrule a court order regarding an individual's conduct (e.g., a Domestic Violence Protection Order or similar orders limiting an individual's access to a particular place).

**Section 6. Effective Date.**

Unless otherwise expressly stated herein or in another Executive Order, this Executive Order shall be in effect at the beginning of the day on March 31, 2021 and remain in effect through and including June 30, 2021, unless repealed, replaced, or rescinded by another applicable Executive Order. An Executive Order rescinding the Declaration of the State of Emergency will automatically rescind this Executive Order.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 30<sup>th</sup> day of March in the year of our Lord two thousand and twenty-one.

  
\_\_\_\_\_  
Roy Cooper  
Governor

ATTEST:

  
\_\_\_\_\_  
Elaine F. Marshall  
Secretary of State





# State of North Carolina

**ROY COOPER**  
GOVERNOR

March 30, 2021

**EXECUTIVE ORDER NO. 207**

**FURTHER EXTENDING PROCESSES TO EXPEDITE PAYMENT OF  
UNEMPLOYMENT INSURANCE CLAIMS**

The COVID-19 Public Health Emergency

**WHEREAS**, on March 10, 2020, the undersigned issued Executive Order No. 116, 34 N.C. Reg. 1744-1749 (April 1, 2020), which declared a State of Emergency to coordinate the State's response and protective actions to address the Coronavirus Disease 2019 ("COVID-19") public health emergency and provide for the health, safety, and welfare of residents and visitors located in North Carolina; and

**WHEREAS**, on March 11, 2020, the World Health Organization declared COVID-19 a global pandemic; and

**WHEREAS**, on March 13, 2020, the President of the United States issued an emergency declaration for all states, tribes, territories, and the District of Columbia, retroactive to March 1, 2020, and the President declared that the COVID-19 pandemic in the United States constitutes a national emergency; and

**WHEREAS**, on March 25, 2020, the President approved a Major Disaster Declaration, FEMA-4487-DR, for the State of North Carolina; and

**WHEREAS**, in responding to the COVID-19 pandemic, and for the purpose of protecting the health, safety, and welfare of the people of North Carolina, the undersigned has issued Executive Order Nos. 116-122, 124-125, 129-131, 133-136, 138-144, 146-153, 155-157, 161-165, 169-177, 180-181, 183-185, 188-193, 195, 197-198, 200, and 204-206; and

**WHEREAS**, COVID-19 continues to exact an unprecedented toll on human life in North Carolina; and

**WHEREAS**, more than nine hundred twelve thousand (912,000) people in North Carolina have had COVID-19, and more than twelve thousand (12,000) people in North Carolina have died from the disease; and

**WHEREAS**, many North Carolinians have experienced loss or reduction in employment since the start of the pandemic; and

Expediting Processing of Unemployment Insurance Claims

**WHEREAS**, on March 17, 2020, with the concurrence of the Council of State, the undersigned issued Executive Order No. 118, which broadened unemployment insurance benefits availability in response to COVID-19; and

**WHEREAS**, from the period dating March 15, 2020 through March 29, 2021, the Division of Employment Security ("Division") has received over 3,520,000 claims; and

**WHEREAS**, to timely process this unprecedented volume of claims, the Division must explore all measures available to expedite the claims process and get relief to North Carolinians; and

**WHEREAS**, N.C. Gen. Stat. § 96-15(a1) provides a mechanism, in the case of partial unemployment, for employers to submit claims on behalf of their employees through the use of an automated process (the "attached claim" process); and

**WHEREAS**, the attached claim process is ordinarily available only for six (6) weeks of benefits, is ordinarily available for use with respect to an employee only once during a benefit year, is ordinarily available only for an employer who has a positive credit balance in their account, and ordinarily is available only for an employer which immediately pays the Division an amount equal to the full cost of unemployment benefits payable to the employee at the time the claim is filed; and

**WHEREAS**, to coordinate with the additional unemployment benefits authorized by the federal government during the emergency, the undersigned determined that expanding availability of the attached claim process would allow more employers to submit claims for their employees, leading to faster automated processing and unemployment insurance funds arriving sooner in the hands of North Carolinians in need; and

**WHEREAS**, on April 9, 2020, the undersigned issued Executive Order No. 131, which provided in part that if the North Carolina Department of Commerce determined that it would significantly speed the processing of unemployment insurance claims and ease the administrative burden on the Division of Employment Security, said Division could delay the enforcement of the requirements of N.C. Gen. Stat. § 96-15(a1) to the extent necessary to expedite the distribution of unemployment insurance benefits; and

**WHEREAS**, on May 2, 2020, in Session Law 2020-3, the North Carolina General Assembly enacted N.C. Gen. Stat. § 96-14.15, which was consistent with the attached claim process changes found in Executive Order No. 131; and

**WHEREAS**, Session Law 2020-3 provided that N.C. Gen. Stat. § 96-14.15 would automatically expire at the end of the State of Emergency or on December 31, 2020, whichever came first; and

**WHEREAS**, on December 27, 2020, the President signed H.R. 133, providing for the continuation of additional unemployment insurance benefits into the first quarter of 2021; and

**WHEREAS**, on December 30, 2020, the undersigned issued Executive Order No. 184, which authorized the North Carolina Department of Commerce to delay enforcement of the attached claim process if necessary to assist in processing unemployment insurance claims through January 31, 2021; and

**WHEREAS**, on January 27, 2021, the undersigned issued Executive Order No. 191, which extended Executive Order No. 184 through March 31, 2021; and

**WHEREAS**, in light of the additional unemployment insurance benefits now authorized by the President for 2021, and in light of the continued and unprecedented number of unemployment insurance claims, the advantages gained by allowing employers to file attached claims for their employees without the restrictions imposed by N.C. Gen. Stat. § 96-15(a1) continue to be meaningful and provide for distribution in a more timely manner; and

**WHEREAS**, the undersigned has therefore determined that to cooperate and coordinate with the President's extension of benefits into 2021 and in order to continue expediting the processing of unemployment insurance claims, the measures in Executive Order No. 184 on expediting unemployment insurance claims shall be extended through and including June 30, 2021; and

Statutory Authority and Determinations

**WHEREAS**, Executive Order No. 116 invoked the Emergency Management Act, and authorizes the undersigned to exercise the powers and duties set forth therein to direct and aid in the response to, recovery from, and mitigation against emergencies; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.10(b)(2), the undersigned may make, amend, or rescind necessary orders, rules, and regulations within the limits of the authority conferred upon the Governor in the Emergency Management Act; and

**WHEREAS**, N.C. Gen. Stat. § 166A-19.10(b)(3) authorizes and empowers the undersigned to delegate any Gubernatorial vested authority under the Emergency Management Act and to provide for the subdelegation of any authority; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.10(b)(4), the undersigned is authorized to “cooperate and coordinate” with the President of the United States and the heads of department and other agencies of the federal government; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(1), the undersigned may utilize all available state resources as reasonably necessary to cope with an emergency, including the transfer and direction of personnel or functions of state agencies or units thereof for the purpose of performing or facilitating emergency services; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(2), during a Gubernatorially declared State of Emergency, the undersigned has the power to “give such directions to state and local law enforcement officers and agencies as may be reasonable and necessary for the purpose of securing compliance with the provisions of this Article”; and

**NOW, THEREFORE**, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, and for the reasons and pursuant to the authority set forth above and in Executive Order Nos. 184 and 191, **IT IS ORDERED:**

**Section 1. Extension of Section 2(D) of Executive Order No. 184 - Reinstating Processes to Expedite Payment of Unemployment Insurance Claims.**

Section 2(D) of Executive Order No. 184 shall be amended and restated as follows:

“This Section of this Executive Order is effective December 31, 2020, and shall remain in effect through and including June 30, 2021, unless repealed, replaced, or rescinded by another Executive Order, or unless a law is passed that codifies this Executive Order. An Executive Order rescinding the Declaration of the State of Emergency shall automatically rescind this Section.”

**Section 2. No Private Right of Action.**

This Executive Order is not intended to create, and does not create, any individual right, privilege, or benefit, whether substantive or procedural, enforceable at law or in equity by any party against the State of North Carolina, its agencies, departments, political subdivisions, or other entities, or any officers, employees, or agents thereof, or any emergency management worker (as defined in N.C. Gen. Stat. § 166A-19.60) or any other person.

**Section 3. Savings Clause and Interpretation.**

If any provision of this Executive Order or its application to any person or circumstances is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order, which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

**Section 4. Distribution.**

I hereby order that this Executive Order be: (1) distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (2) promptly filed with the Secretary of the North Carolina Department of Public Safety, the Secretary of State, and the superior court clerks in the counties to which it applies, unless the circumstances of the State of Emergency would prevent or impede such filing; and (3) distributed to others as necessary to ensure proper implementation of this Executive Order.

**Section 5. Effective Date.**

Unless otherwise expressly stated herein or in another Executive Order, this Executive Order shall be in effect at the beginning of the day on March 31, 2021 and remain in effect through and including June 30, 2021, unless repealed, replaced, or rescinded by another applicable Executive Order. An Executive Order rescinding the Declaration of the State of Emergency will automatically rescind this Executive Order.

**IN WITNESS WHEREOF**, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 30<sup>th</sup> day of March in the year of our Lord two thousand and twenty-one.

  
\_\_\_\_\_  
Roy Cooper  
Governor

**ATTEST:**

  
\_\_\_\_\_  
Elaine F. Marshall  
Secretary of State



1                   **NOTICE OF RULE MAKING PROCEEDINGS AND PUBLIC HEARING**

2  
3                   **NORTH CAROLINA BUILDING CODE COUNCIL**

4  
5       **Notice of Rule-making Proceedings** is hereby given by NC Building Code Council in accordance with  
6       *G.S. 150B-21.5(d).*

7  
8       **Citation to Existing Rule Affected by this Rule-Making:** *North Carolina, Fire, Building, Mechanical,*  
9       *Existing Building, Residential, and Energy Codes amendments.*

10  
11       **Authority for Rule-making:** *G.S. 143-136; 143-138.*

12  
13       **Reason for Proposed Action:** *To incorporate changes in the NC State Building Codes as a result of*  
14       *rulemaking petitions filed with the NC Building Code Council and to incorporate changes proposed by the*  
15       *Council.*

16  
17       **Public Hearing:** *Tuesday, June 8, 2021, 9:00AM, Albemarle Building, 325 North Salisbury Street,*  
18       *Raleigh, NC 27603, 2<sup>nd</sup> Floor Training Room 240. Comments on both the proposed rule and any fiscal*  
19       *impact will be accepted.*

20  
21       **Comment Procedures:** *Written comments may be sent to Carl Martin, Secretary, NC Building Code*  
22       *Council, NC Department of Insurance, 1202 Mail Service Center, Raleigh, NC 27699-1202. Comments on*  
23       *both the proposed rule and any fiscal impact will be accepted. Comment period expires on July 16, 2021.*

24  
25       **Link to Agency Notice:**  
26       <https://www.ncosfm.gov/codes/building-code-council-bcc/bcc-hearing-notices>

27  
28       **Statement of Subject Matter:**

29  
30       **1. Request from Carl Martin representing the Department of Insurance to amend the 2018 NC**  
31       **Administration Code, Chapters 1, 2, and 3.**

32  
33       **106.1 Permit required.** A current permit is required for all work described in the technical codes unless  
34       specifically exempted by the North Carolina General Statutes or the technical codes.

35  
36       *Commentary: Reference North Carolina General Statutes ~~153A-357 and 160A-417~~ Statute 160D-1110*  
37       *for exceptions.*

1  
2 **106.2.3 Review and approval.** When the inspection department issues a permit, it shall approve, in writing  
3 or by stamp, all sets of drawings and specifications "Reviewed for Code Compliance".

4 **Exception:** Nothing in this section shall require the review and approval of one- and two-family dwelling  
5 plans.  
6

7 Commentary: Drawings and specifications shall be kept in a manner prescribed by North Carolina  
8 General Statutes ~~153A-373 and 160A-433~~ Statute 160D-1126.  
9

10 **202.9.1 Engineering division.** A written technical interpretation shall be provided as specified in Section  
11 ~~203.1.2.1.2~~ 203.2.1.2. Any person may appeal in writing an order, decision or determination pertaining to  
12 the code or any state building law by filing written notice with the Commissioner of Insurance or his  
13 designee within 10 days after the order, decision or determination. A copy of the appeal shall be furnished  
14 to each party.

15 (General Statutes 143-140, ~~153A-374 and 160A-434~~ and 160D-1127)  
16

17 **202.9.2.2** The Notice or Appeal shall be received no later than 30 days from the date of the decision of the  
18 State enforcement agency. (General Statute 143-141).  
19

20 **203.1.1.3 Buildings within primary fire limits.** The Commissioner of Insurance or his or her designee  
21 shall review all permits to erect, alter, repair or move any wood-frame building or structure within the  
22 primary fire district of a municipality. Such permits shall be received and approved by the Inspection  
23 Department and approved by the Municipal Council prior to the Commissioner or his or her designee's  
24 approval.

25 (General Statutes ~~153A-375 and 160A-436~~ Statute 160D-1128)  
26

27 **203.2.2 Appeals.** Any person may appeal in writing an order, decision or determination of a code  
28 enforcement official pertaining to the code or any state building law. The appeal shall be addressed to the  
29 Chief Engineer for the Department of Insurance by filing written notice within 10 days after the order,  
30 decision or determination. The appeal shall contain the type and size of the building in question, the  
31 location of the building and shall reference the code sections in question. The decision shall be in writing  
32 and shall set forth the facts found. The decision rendered shall be based on the technical provisions of the  
33 code, public health and safety and shall be construed liberally to those ends. A decision shall be binding on  
34 all parties unless an appeal is submitted to the Building Code Council as specified in Section ~~201.9.2~~

35 202.9.2. A copy of the appeal and written decision shall be furnished to each party.

36 (General Statutes ~~153A-374 and 160A-434~~ Statute 160D-1127)  
37



1 **204.1 General.** The powers, duties and responsibilities of the code enforcement official are generally  
2 described in the following General Statutes: 1. GS153A-352 for counties, and 2. GS160A-412 for cities  
3 Statute 160D, Article 11.

4  
5 **204.2.2 Jurisdiction.** A municipal inspection department shall have jurisdiction over all areas within the  
6 city limits, all extraterritorial areas that the city has jurisdiction pursuant to state laws, and over any areas in  
7 which the municipal limits have contracted with another unit of government to perform code enforcement.  
8 A county inspection department shall have jurisdiction over all unincorporated areas outside any municipal  
9 jurisdiction located within the county, all areas in which a municipality has requested the county to enforce  
10 the code, and within the jurisdiction of another unit of government in which the county has contracted to  
11 perform code enforcement. A joint inspection department created by two or more units of government shall  
12 have the authority to enforce the code in all areas of legal jurisdiction of all units of government supporting  
13 the joint department.  
14 (General Statutes ~~153A-352 and 153A-353 for counties, and 160A-411 and 160A-413 for cities~~ 160D-1104  
15 and 160D-1107)

16  
17 **204.2.3 Duties.** Inspection departments shall:

- 18 1. Receive applications and supporting data for permits;
- 19 2. Issue or deny permits;
- 20 3. Make all necessary inspections to ensure code compliance;
- 21 4. Identify technical provisions found to be inconsistent with the inspection;
- 22 5. Issue or deny certificates of compliance and certificates of occupancy;
- 23 6. Issue stop work orders or orders to correct violations;
- 24 7. Maintain adequate records of permits issued or denied, inspections made, corrections ordered and
- 25 certifications issued; and
- 26 8. Take other actions that may be required to adequately enforce the code.

27 (General Statutes ~~153A-352 and 160A-412~~ Statute 160D-1104)

28  
29 **204.2.4 Code enforcement official's qualifications.** No state or local government employee shall enforce  
30 any provision of the North Carolina State Building Codes who does not possess an appropriate valid  
31 certificate issued by the North Carolina Code Official's Qualification Board as specified in General  
32 Statutes ~~143-151.13, 153A-351.1 and 160A-411.1~~ and 160D-1103.

33  
34 **204.2.5 Conflict of interest.** Information about conflict of interest for code enforcement officials can be  
35 found in General Statutes ~~153A-355 for counties and 160A-415 for cities~~ Statute 160D-1108.

1 **204.2.6 Right of entry.** The code enforcement official shall have the right to enter buildings or premises as  
2 described in General Statutes ~~153A-360 and 153A-364 for counties, and 160A-420 and 160A-421 for cities~~  
3 160D-1113 and 160D-1117.

4  
5 **204.2.7 Stop work orders.** General Statute ~~153A-361~~ 160D-404 authorizes a ~~county~~ code enforcement  
6 official to issue stop work orders. ~~General Statute 160A-421 authorizes a city code enforcement official to~~  
7 ~~issue stop work orders. These statutes describe~~ The statute describes when a stop work order can be issued,  
8 and how the stop work order is to be issued, and how the stop work order may be appealed. See Section  
9 204.10 for appeal of stop work orders.

10  
11 **204.2.8 Unsafe building or systems.** A ~~county~~ code enforcement official's authority to condemn an unsafe  
12 building is found in General Statute ~~153A-366~~ 160D-1119. ~~A city code enforcement official's authority to~~  
13 ~~condemn an unsafe building is found in General Statute 160A-426.~~

14  
15 **204.3.1 General.** No person may commence or proceed with:

- 16 1. The construction, reconstruction, alteration, repair, movement to another site, removal or demolition of  
17 any building;  
18 2. The installation, extension or general repair of any plumbing system;  
19 3. The installation, extension, alteration or general repair of any heating or cooling equipment system; or  
20 4. The installation, extension, alteration or general repair of any electrical wiring, devices, appliances or  
21 equipment without first securing from the Inspection Department with jurisdiction over the site of the work  
22 each permit required by the North Carolina State Building Codes and other State or local law or local  
23 ordinance or regulation applicable to the work.  
24 (General Statute ~~153A-357 and 160A-417~~ 160D-1110)

25 **204.3.2 Validity.** In accordance with General Statutes ~~153A-358 for counties and 160A-418 for cities~~  
26 Statute 160D-1111, a permit expires 6 months, or any lesser time fixed by local ordinances, after the date of  
27 issuance if the work authorized by the permit has not been commenced. If, after commencement, the work  
28 is discontinued for a period of 12 months, the permit immediately expires. No work authorized by a permit  
29 that has expired may be performed until a new permit has been issued.

30  
31 **204.3.6 Contractor license required.** When the General Statutes require that general construction,  
32 plumbing, mechanical, electrical, fire protection or gas work be performed by an appropriately licensed  
33 individual, no permit for such type work shall be issued to an unlicensed person or firm. Additional  
34 requirements may be found in General Statutes 87-14, 87-21(e), 87-43.1, 87-58, 153A-134, ~~153A-357,~~  
35 160A-194 and 160A-417 160D-1110.

1 **204.4.1 Action on permits.** In accordance with General Statute ~~153A-357 for counties and General Statute~~  
2 ~~160A-417 for cities~~ 160D-1110, the Inspection Department shall examine each application for a permit to  
3 determine if it is in compliance with the requirements of the technical codes and other pertinent laws and  
4 ordinances. If the inspection department is satisfied that the work described in the application conforms to  
5 the requirements of the technical codes and other pertinent laws and ordinances, it shall issue a permit to  
6 the applicant. If the application does not conform to the requirements of the technical codes and other  
7 pertinent laws and ordinances, the application shall be returned to the applicant with the reasons for refusal  
8 stated.

9 (General Statutes ~~153A-352, 160A-412 and 160A-417~~ 160D-1104 and 160D-1110)

11 **204.5.2 Permit intent.** A permit issued shall be construed as permission to proceed with the work and not  
12 as authority to violate, cancel, alter or set aside any of the provisions of the technical codes. Issuance of a  
13 permit shall not prevent the inspection department from requiring correction of errors in plans, construction  
14 or violations of this code.

15 (General Statutes ~~153A-357 and 160A-417~~ Statute 160D-1110)

17 **204.5.3.2 Violation of code provisions.** The code enforcement official may revoke a permit upon  
18 determination that the work for which the permit was issued is in violation of, or not in conformity with,  
19 the provisions of this or the technical codes.

20 (General Statute ~~153A-362, 160A-422~~ 160D-1115)

22 **204.6.1 Fees.** A permit shall not be issued until the fees prescribed by the local governing authority have  
23 been paid. No amendment to a permit shall be released until the additional fee, if any, has been paid.

24 (General Statutes ~~153A-354 and 160A-414~~ Statute 160D-402)

26 **204.6.2 Work commencing before permit issuance.** If any person commences any work on a building or  
27 service systems before obtaining the necessary permit, he or she shall be subject to a penalty as established  
28 by the local governing body.

29 (General Statutes ~~153A-354 and 160A-414~~ Statute 160D-402)

31 **204.7.1 Periodic inspections for hazardous or unlawful conditions.** The inspection department shall  
32 make periodic inspections as specified in General Statutes ~~153A-364 for counties and 160A-424 for cities~~  
33 Statute 160D-1117.

35 **204.8.1 Building occupancy.** A new building shall not be occupied, or a change made in the occupancy,  
36 nature or use of a building or part of a building until after the inspection department has issued a certificate  
37 of compliance. The certificate of compliance shall not be issued until all required service systems have

1 been inspected for compliance with the technical codes and other applicable laws and ordinances and  
2 released by the inspection department.

3 (~~General Statutes 153A-363 and 160A-423~~ Statute 160D-1116)

4  
5 **204.8.2 Certificate of compliance.** Upon satisfactory completion of a building, plumbing, mechanical,  
6 electrical, fire protection or gas system, or portion thereof, a certificate of compliance shall be issued. The  
7 certificate of compliance represents that a structure or system is complete and for certain types of permits is  
8 permission granted for connection to a utility system. The certificate of compliance shall not be construed  
9 to grant authority to occupy a building.

10 (~~General Statutes 153A-363 and 160A-423~~ Statute 160D-1116)

11  
12 **204.8.3 Temporary/partial occupancy.** A temporary/partial certificate of compliance may be issued  
13 permitting occupancy for a stated period for specific portions of a building or service system that the  
14 inspector finds safe for occupancy prior to final completion of the entire building or system.

15 (~~General Statutes 153A-363 and 160A-423~~ Statute 160D-1116)

16  
17 **204.9.2 Temporary connection.** The inspection department may authorize the temporary connection of the  
18 building or system to the utility source of energy, fuel or power for the purpose of testing building service  
19 systems.

20 (~~General Statutes 153A-363 and 160A-423~~ Statute 160D-1116)

21  
22 **204.10 Appeal of stop work orders.** Whenever a stop order has been issued by an inspection  
23 department involving alleged violations of the State Building Codes, the owner or builder may appeal in  
24 writing to the Commissioner of Insurance, or his or her designee, within 5 days after the date the order is  
25 issued, with a copy of the appeal to the inspection department. No further work may take place in violation  
26 of a stop order. The Commissioner, or his or her designee, shall promptly conduct an investigation. The  
27 inspection department and the owner or builder shall be permitted to submit relevant evidence for the  
28 investigation. The Commissioner of Insurance, or his or her designee, shall provide a written statement of  
29 the decision setting forth the facts found, the decision reached and the reasons for the decision. In the event  
30 of dissatisfaction with the decision, the person affected shall have the option of appealing as set forth in  
31 Section 203.1.2.

32 (~~General Statutes 153A-361 and 160A-421~~ Statute 160D-1114)

33  
34 **204.14 Code enforcement official not fulfilling responsibilities.** When the code enforcement official does  
35 not fulfill his responsibilities as specified in Section 204.13, the Commissioner of Insurance or his designee  
36 may institute any appropriate actions or proceedings available.

37 (~~General Statutes 14-230, 14-231, 14-232, 153A-356 and 160A-41~~ 160D-1109)

1  
2 **CHAPTER 3 REPRINT OF THE GENERAL STATUTES PERTAINING TO THE**  
3 **ENFORCEMENT OF THE NORTH CAROLINA STATE BUILDING CODE**  
4

5 The North Carolina State Building Codes do not include all additional requirements for buildings and  
6 structures that may be imposed by other State agencies, occupational licensing boards and commissions. It  
7 shall be the responsibility of a permit holder, design professional, contractor or occupational license holder  
8 to determine whether any additional requirements exist.  
9

10 The current language of the General Statutes may be viewed at [www.ncleg.gov](http://www.ncleg.gov).  
11

12 The following list, while extensive, may not include all applicable General Statutes.

- 13 1-539.2 Dismantling portion of building  
14 14-68 Failure of owner of property to comply with orders of public authorities  
15 14-228–232 Misconduct in public office  
16 14-414 Pyrotechnics defined; exceptions  
17 15-27.2 Administrative search and inspection warrants  
18 42 Article 5 Landlord Tenant  
19 58-2-95 Commissioner to supervise local inspectors  
20 58-31-40 Commissioner to inspect state property; plans submitted  
21 58-79-20 Inspection of premises; dangerous material removed  
22 66-23–27 Electrical materials, devices, appliances and equipment  
23 83A-1–13 Architects  
24 87-1–15 General contractors  
25 87-21 Plumbing, heating and fire sprinkler contractor  
26 87-43 Electrical contractors  
27 87-57–58 Refrigeration contractors  
28 89C-3–23 Engineers  
29 95-69 Uniform boiler and pressure vessel act  
30 105-130–151 Accessibility tax credit  
31 106-581.1 Agriculture Defined  
32 115C-525 Public schools  
33 119 Article 5 Liquefied petroleum gases  
34 130A-336–339 Wastewater system construction  
35 133-1–4 Public works  
36 143-135.1 Inspection of state owned buildings  
37 143-136–143 Building Code Council and Building Code

- 1 143-141 Appeals to Building Code Council
- 2 143-151.8-21 Code officials qualification board
- 3 143-151.42 Prohibition of master meters for electric and natural gas service
- 4 143-151.43-64 North Carolina home inspector board
- 5 150B-18-21 Administrative Procedures Act
- 6 ~~153A-97-375 Counties~~
- 7 ~~160A-167-438 Cities~~
- 8 160D Article 11 Building Code Enforcement



APPENDIX E  
 APPEALS  
 NORTH CAROLINA  
 BUILDING CODE COUNCIL  
 325 North Salisbury Street, Room 5\_44  
 Raleigh, North Carolina 27603  
 (919) 647-0009

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APPEAL TO NCDOI/NCBCC Hearing Date \_\_\_\_/\_\_\_\_/\_\_\_\_

GS 153A-374, GS 160A-434 160D-1127

GS 143-140, GS 143-141

Formal Interpretation by NCDOI \_\_\_\_\_ Appeal of Local Decision to NCBCC \_\_\_\_\_

Appeal of Local Decision to NCDOI \_\_\_\_\_ Appeal of NCDOI Decision to NCBCC \_\_\_\_\_

APPELLANT \_\_\_\_\_ PHONE: (\_\_\_\_) \_\_\_\_ - \_\_\_\_ x \_\_\_\_

REPRESENTING: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_

E-MAIL: \_\_\_\_\_ FAX: (\_\_\_\_) \_\_\_\_ - \_\_\_\_

North Carolina State Building Code, Volume \_\_\_\_\_ - Section \_\_\_\_\_

**REQUEST ONE:** ☐ Formal Interpretation by NCDOI ☐ Appeal of Local Decision to NCBCC  
☐ Appeal of Local Decision to NCDOI ☐ Appeal of NCDOI Decision to NCBCC

Type or print. Include all background information as required by the referenced General Statutes and the attached policies. Attach additional supporting information.

REASON: \_\_\_\_\_

APPEAL TO

NCDOI/NCBCC

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

FORM 3/14/17

1  
2 **Motion/Second/Approved** – The request was granted. The proposed effective date of this rule is  
3 September 1, 2021 (earliest through RRC), unless the BCC assigns a delayed effective date (January 1,  
4 2022).

5 **Reason Given** – The purpose of this amendment is to update the code to reflect changes in referenced NC  
6 Statutes.

7 **Fiscal Statement** – This rule is anticipated to provide equivalent compliance with no net decrease/increase  
8 in cost. This rule is not expected to either have a substantial economic impact or increase local and state  
9 funds. A fiscal note has not been prepared.

10  
11  
12 **2. Request by Wayne Hamilton representing the NC Building Code Council Tent Ad-hoc Committee**  
13 **to amend the 2018 NC Fire Code, Section 3103.4.**

14  
15 **3103.4 Permits.** Permits shall be required as set forth in Sections 105.6 and 105.7. The fire  
16 code official shall refer the permit applicant to the appropriate agency for other applicable occupational  
17 licensing or construction permitting requirements.

18  
19 **Motion/Second/Approved** – The request was granted. The proposed effective date of this rule is  
20 September 1, 2021 (earliest through RRC), unless the BCC assigns a delayed effective date (January 1,  
21 2022).

22 **Reason Given** – The purpose of this amendment is to make permit applicants aware of possible additional  
23 licensing or construction permitting requirements.

24 **Fiscal Statement** – This rule is anticipated to provide equivalent compliance with no net decrease/increase  
25 in cost. This rule is not expected to either have a substantial economic impact or increase local and state  
26 funds. A fiscal note has not been prepared.

27  
28  
29 **3. Request from Bryan Dale Robinson representing the City of Raleigh to amend the 2018 NC**  
30 **Building Code, Section 1004.2.**

31  
32 **1004.2 Increased Occupant Load** – Where approved by the Building Official, the occupant load  
33 permitted in any building, or portion thereof, is permitted to be increased from the number established for  
34 the occupancies in Table 1004.1.2, provided that all other requirements of the code are met based on such  
35 modified number and the occupant load does not exceed one occupant per 7 square feet (0.65 m<sup>2</sup>) of  
36 occupiable floor space. Where required by the building official, an approved aisle, seating or fixed



1 equipment diagram substantiating any increase in *occupant load* shall be submitted. Where required by the  
2 *building official*, such diagram shall be posted.

3  
4 **Motion/Second/Approved** – The request was granted. The proposed effective date of this rule is  
5 September 1, 2021 (earliest through RRC), unless the BCC assigns a delayed effective date (January 1,  
6 2022).

7 **Reason Given** – The purpose of this amendment is to clarify that building official approval is required to  
8 increase occupant loading.

9 **Fiscal Statement** – This rule is anticipated to provide equivalent compliance with no net decrease/increase  
10 in cost. This rule is not expected to either have a substantial economic impact or increase local and state  
11 funds. A fiscal note has not been prepared.

12  
13  
14 **4. Request from Drew Crawford representing DIYtiny, INC to add to the 2018 NC Building Code,**  
15 **Section 101.2.6 and amend Section 202.**

16  
17 **101.2.6** A *Tiny House* shall be constructed in accordance with the *International Residential Code* and shall  
18 be separated in accordance with Table 602.

19  
20 **Section 202 Definitions**

21 **TINY HOUSE.** A detached single-family dwelling that is 400 square feet (37 m<sup>2</sup>) or less in floor area,  
22 excluding lofts.

23  
24 **Motion/Second/Approved** – The request was granted. The proposed effective date of this rule is  
25 September 1, 2021 (earliest through RRC), unless the BCC assigns a delayed effective date (January 1,  
26 2022).

27 **Reason Given** – The purpose of this amendment is to align NC Building Code and NC Residential Code  
28 construction of tiny homes.

29 **Fiscal Statement** – This rule is anticipated to provide a slight decrease in cost. This rule is not expected to  
30 either have a substantial economic impact or increase local and state funds. A fiscal note has not been  
31 prepared.

32  
33  
34 **5. Request from Drew Crawford representing DIYtiny, INC to amend the 2018 NC Residential**  
35 **Code, Sections R202, R305 and R328.**

1 **101.2.6** A *Tiny House* shall be constructed in accordance with the *International Residential Code* and shall  
2 be separated in accordance with Table 602.

3  
4 **Section R202 Definitions**

5 **TINY HOUSE** A detached single-family *dwelling* that is 400 square feet (37 m<sup>2</sup>) or less in floor area  
6 excluding lofts.

7 **R305.1 Minimum height.** *Habitable space*, hallways and portions of *basements* containing these spaces  
8 shall have a ceiling height of not less than 7 feet (2134 mm). Bathrooms, toilet rooms and laundry rooms  
9 shall have a ceiling height of not less than 6 feet 8 inches (2032 mm).

10 **Exceptions:**

11 1. For rooms with sloped ceilings, the required floor area of the room shall have a ceiling height of not less  
12 than 5 feet (1524 mm) and not less than 50 percent of the required floor area shall have a ceiling height of  
13 not less than 7 feet (2134 mm).

14 2. The ceiling height above bathroom and toilet room fixtures shall be such that the fixture is capable of  
15 being used for its intended purpose. A shower or tub equipped with a showerhead shall have a ceiling  
16 height of not less than 6 feet 8 inches (2032 mm) above an area of not less than 30 inches (762 mm) by 30  
17 inches (762 mm) at the showerhead.

18 3. Beams, girders, ducts or other obstructions in *habitable space* shall be permitted to project to within 6  
19 feet 4 inches (1931 mm) of the finished floor.

20 4. Ceiling heights in lofts are permitted to be less than 6 feet 8 inches.

21 5. Kitchens shall have a ceiling height of not less than 6 feet 8 inches in a *tiny house*.

22  
23 **R328.1.2 Maximum area.** *Lofts* shall have a floor area not greater than ~~70~~ 100 square feet (~~6.50~~ 9.29 m<sup>2</sup>).

24  
25 **R328.1.3 Minimum horizontal dimensions.** *Lofts* shall not be less than 5 feet (1524 mm) in any  
26 horizontal dimension.

27  
28 **R328.2 Loft access and egress.** The access to and primary egress from *lofts* shall be any type described in  
29 Sections R328.2.1 through R328.2.4. The *loft* access and egress elements along its required minimum  
30 width, shall meet the *loft* where its ceiling height is not less than 3 feet (914mm).

31  
32 **R328.2.1.2 Headroom.** The headroom ~~in~~ above stairways accessing a *loft* shall be not less than 6 feet 2  
33 inches (1880 mm), as measured vertically, from a sloped line connecting the tread ~~or~~ landing, or landing  
34 platform nosings in the ~~middle~~ center of their width, and vertically from the landing platform along the  
35 center of its width.

**R328.2.1.4 Landings.** Intermediate landings and landings at the bottom of *stairways* shall comply with Section R311.7.6, except that the depth in the direction of travel shall be not less than 24 inches (610 mm).

~~R328.2.1.4~~ **R328.2.1.5 Landing platforms.** The top tread and riser of stairways accessing *lofts* shall be constructed as a landing platform where the *loft* ceiling height is less than 6 feet 2 inches (1880 mm) where the *stairway* meets the loft. The landing platform shall be ~~18 inches to 22 inches (457 to 559)~~ not less than 20 inches (508 mm) in width and in depth measured horizontally from and perpendicular to the nosing of the landing platform. The landing platform riser height to the edge of the loft, and 16 to floor shall be not less than 16 inches (406 mm) and not greater than 18 inches (406 to 457 mm) in height measured from the landing platform to the loft floor.

~~R328.2.1.5~~ **R328.2.1.6 Handrails.** *Handrails* shall comply with Section R311.7.8.

~~R328.2.1.6~~ **R328.2.1.7 Stairway guards.** *Guards* at open sides of *stairways*, *landings* and *landing platforms* shall comply with Section R312.1.

**R328.2.2.1 Size and capacity.** Ladders accessing lofts shall have a rung width of not less than 12 inches (305 mm) and 10 inches (254 mm) to 14 inches (356 mm) spacing between rungs. Ladders shall be capable of supporting a ~~200~~ 300 pound (75 136 kg) load on any rung. Rung spacing shall be uniform within 3/8-inch (9.5 mm).

**R328.2.5 Loft Guards.** *Loft guards* shall be located along the open ~~side~~ *sides* of *lofts*. *Loft guards* shall not be less than 36 inches (914 mm) in height or one-half of the clear height to the ceiling, whichever is less. *Loft guards* shall comply with Section R312.1.3 and Table R301.5 for their components.

**Motion/Second/Approved** – The request was granted. The proposed effective date of this rule is September 1, 2021 (earliest through RRC), unless the BCC assigns a delayed effective date (January 1, 2022).

**Reason Given** – The purpose of this amendment is to align NC Residential Code with Appendix Q of the 2018 International Residential Code.

**Fiscal Statement** – This rule is anticipated to provide a slight decrease in cost. This rule is not expected to either have a substantial economic impact or increase local and state funds. A fiscal note has not been prepared.

**6. Request from Kerry Sutton representing American Concrete Institute (ACI), Dave Tepke representing ACI Carolinas Chapter, Mark LeMay representing International Concrete Repair**

Institute (ICRI), Bill Brickey representing ICRI Carolinas Chapter, Keith Kesner representing CVM, Tim Cooke representing SKA Consulting Engineering, and Douglas Allen representing Simpson Strong-Tie to add 2018 NC Existing Building Code, Section 606.1.1 and amend Chapter 16.

**606.1.1 Repairs to structural concrete.** Repairs to structural concrete elements in accordance with ACI 562 shall be permitted.

**Exceptions:**

1. Where seismic design governs, ACI 562 shall not be used for evaluation and design.

2. Dwellings and accessory buildings constructed under the NC Residential Code.

**Chapter 16 Referenced Standards**

ACI 562-16: Code Requirements for Assessment, Repair, and Rehabilitation of Existing Concrete Structures ..... 606.1.1

**Motion/Second/Approved** – The request was granted. The proposed effective date of this rule is September 1, 2021 (earliest through RRC), unless the BCC assigns a delayed effective date (January 1, 2022).

**Reason Given** – The purpose of this amendment is to establish a viable standard for repair of structural concrete.

**Fiscal Statement** – This rule is anticipated to provide a slight decrease in cost. This rule is not expected to either have a substantial economic impact or increase local and state funds. A fiscal note has not been prepared.

**NOTICE:**

*Appeals and Interpretations of the North Carolina State Building Codes are published online at the following link.*

**<https://www.ncosfm.gov/codes/codes-current-and-past>**

**NOTICE:**

**Objections and Legislative Review** requests may be made to the NC Office of Administrative Hearings in accordance with G.S. 150B-21.3(b2) after Rules are adopted by the Building Code Council.

**<http://www.ncoah.com/rules/>**

**Note from the Codifier:** The notices published in this Section of the NC Register include the text of proposed rules. The agency must accept comments on the proposed rule(s) for at least 60 days from the publication date, or until the public hearing, or a later date if specified in the notice by the agency. If the agency adopts a rule that differs substantially from a prior published notice, the agency must publish the text of the proposed different rule and accept comment on the proposed different rule for 60 days. Statutory reference: G.S. 150B-21.2.

**TITLE 14B – DEPARTMENT OF PUBLIC SAFETY**

☒ **No fiscal note required**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the Alarm Systems Licensing Board intends to amend the rule cited as 14B NCAC 17 .0201.*

**Link to agency website pursuant to G.S. 150B-19.1(c):**  
<https://www.ncdps.gov/dps-services/permits-licenses/alarm-system-licensing-board>

**Proposed Effective Date:** September 1, 2021

**Public Hearing:**

**Date:** June 8, 2021

**Time:** 2:00 p.m.

**Location:** 3101 Industrial Drive, Suite 104, Raleigh, NC 27609

**Reason for Proposed Action:** *This rule amendment is currently a temporary rule to ease the burden on licensees during the current pandemic. It is proposed as a permanent amendment to alleviate any similar burden for a future national or State declared emergency.*

**Comments may be submitted to:** Paul Sherwin, 3101 Industrial Drive, Suite 104, Raleigh, NC 27609; phone (919) 788-5320; fax (919) 715-0370; email paul.sherwin@ncdps.gov

**Comment period ends:** July 2, 2021

**Procedure for Subjecting a Proposed Rule to Legislative Review:** If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 984-236-1850.

**Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.**

- ☐ State funds affected  
☐ Local funds affected  
☐ Substantial economic impact ( $\geq$  \$1,000,000)  
☐ Approved by OSBM

**CHAPTER 17 - ALARM SYSTEMS LICENSING BOARD**

**SECTION .0200 – PROVISIONS FOR LICENSEES**

**14B NCAC 17 .0201 APPLICATION FOR LICENSE**

(a) Each applicant for a license shall submit an online application on the website provided by the Board. When this online application is submitted, it shall be accompanied by:

- (1) electronic submission of fingerprints from a Live Scan or similar system approved by the State Bureau of Investigation or one set of classifiable fingerprints on an F.B.I. fingerprint card provided by the Board and mailed separately to the Board's office;
- (2) one head and shoulders digital photograph of the applicant in JPG format of sufficient quality for identification, taken within six months prior to the online submission, and uploaded with the application submission;
- (3) statements of the results of a statewide criminal history records search by the reporting service designated by the Board pursuant to G.S. 74D-2.1(a) for any state where the applicant has resided within the preceding 60 months; and
- (4) the applicant's application fee, along with a four dollar (\$4.00) convenience fee charged by the third-party vendor and credit card transaction fee charged by the applicant's credit card provider and collected online.

(b) Each applicant shall upload evidence of high school graduation either by diploma, G.E.D. certificate, or other equivalent documentation.

(c) Each applicant for a license shall meet personally with either a Board investigator, the Screening Committee, the Director, or a Board representative designated by the Director prior to being issued a license. The applicant shall discuss the provisions of G.S. 74D and the administrative rules in this Chapter during the personal meeting. The applicant shall sign a form provided by the Board stating that the applicant has reviewed the information with the Board's representative and that the applicant understands G.S. 74D and the administrative rules in this Chapter. During a national or State declared state of emergency which restricts or prohibits travel the personal meeting requirement may be waived in lieu of alternative means of communication.

(d) Each applicant for a branch office license shall submit an online application on the website provided by the Board. This online application shall be accompanied by the branch office application fee.

*Authority G.S. 74D-2; 74D-2.1; 74D-3; 74D-5; 74D-7; 74D-8.*

**TITLE 15A – DEPARTMENT OF ENVIRONMENTAL QUALITY**

*Notice is hereby given in accordance with G.S. 150B-21.3A(c)(2)g. that the Environmental Management Commission intends to readopt with substantive changes the rules cited as 15A NCAC 02E .0301, .0501, .0502, .0504, .0505, .0507, .0602, .0603, .0605-.0615, readopt without substantive changes the rules cited as 15A NCAC 02E .0106, .0107, .0601, .0604, and repeal through readoption the rules cited as 15A NCAC 02E .0503, and .0506.*

**Link to agency website pursuant to G.S. 150B-19.1(c):**  
<https://deq.nc.gov/news/events/public-notice-hearings>

**Proposed Effective Date:** January 1, 2022

**Public Hearing:**

**Date:** May 20, 2021

**Time:** 6:00 p.m.

**Location:**

*In the abundance of caution, and to address protective measures to help prevent the spread of COVID-19, the NC Division of Water Resources is holding an online public hearing that can be joined starting at 5:45 pm via WebEx link:*

*<https://ncdenrits.webex.com/ncdenrits/onstage/g.php?MTID=ed24ad39f5c499f4c8a32f8afb034c78d>*

*WebEx password: ncdwr*

*WebEx phone number: 1-415-655-0003*

*WebEx access code: 185 923 0287*

*To register for the hearing and provide your preference regarding speaking at the hearing, please visit:*

*<https://forms.office.com/Pages/ResponsePage.aspx?id=3IF2etC5mkSFw-zCbNftGRcM2xmuszROiks3JDQp2>*

*[RUN0cxVku2TFFTN!dYSDRFWU4zSTISVEFYNC4u](https://forms.office.com/Pages/ResponsePage.aspx?id=3IF2etC5mkSFw-zCbNftGRcM2xmuszROiks3JDQp2)*

*Or scan the following QR code with your phone:*



*Registration must be completed by 12:00 pm on May 20, 2021. If you have any problems registering online, please call 919-707-9024 by the registration deadline of 12:00 pm on May 20, 2021.*

*The Division of Water Resources highly recommends testing your computer's WebEx capabilities prior to the hearing at <https://www.webex.com/test-meeting.html>. For instructions about digital ways to join the public hearing, please refer to the WebEx Help Center online at <https://help.webex.com/en-us/>.*

*To comment during the hearing after your name is called as a registered speaker and/or after the hearing officer asks if any people wish to comment following the registered speakers:*

*-If you join the hearing by phone, press \*3 to "raise your hand," speak once called upon to do so, and press \*3 again to "lower your hand."*

*-If you join the hearing online, press the hand icon to "raise your hand," speak once called upon to do so, and press the hand icon again to "lower your hand."*

*-The Hearing Officer may limit the length of time that you may speak, so that all those who wish to speak may do so.*

**Reason for Proposed Action:** *N.C. Gen. Stat. 150B-21.3A requires state agencies to review existing rules every 10 years, determine which rules are still necessary, and either re-adopt or repeal each rule as appropriate. The proposed rulemaking satisfies these requirements for the re-adoption process for the following 15A NCAC 02E-Water Use Registration and Allocation Rules:*

*.0100 General Provisions*

*.0300 Registration of Water Withdrawals and Transfers*

*.0500 Central Coastal Plain Capacity Use Area*

*.0600 Water Use During Droughts and Water Supply Emergencies*

*The .0300 -Registration of Water Withdrawals and Transfers rules collect annual self-supplied water use data from 85 counties outside of the Central Coastal Plain Capacity Use Area to manage the limited water resources. The .0500 -Central Coastal Plain Capacity Use Area (CCPCUA) was created due to unsustainable ground water withdrawals of two major aquifers in the central coastal plain: the Black Creek and Upper Cape Fear. There is evidence of present and future ground water supply shortages within the area encompassed by the 15 counties in the CCPCUA. Within this area, ground water from the Black Creek and Upper Cape Fear aquifers is being withdrawn at a rate that exceeds the available recharge. To address this problem, DWR created the CCPCUA to regulate water use through permitting to avoid damage to the ground water resources and to maintain those sources of water indefinitely. The .0600 -Water Use During Droughts and Water Supply Emergencies rules established minimum standards and practices for water conservation and water reuse during drought and water supply emergencies. The rules addressed water use by publicly and privately owned water systems, state agencies, local governments, business, industry, agriculture and horticulture. The purpose of the rules is to minimize harmful impacts on public health and safety, environmental quality, and the economy by establishing minimum standards and practices for water shortage response planning, water use reporting, water conservation, and water reuse during droughts and water supply emergencies.*

**Proposed changes to 15A NCAC 02E Water Use Registration and Allocation Rules include:**

- Updated of agency names and addresses
- removed language already codified
- removed incorrect reporting requirements already codified
- format changes and removed some unnecessary language
- repealed outdated language
- updated language for clarification

- added three definitions (aquifer recharge, cretaceous aquifer system zones, and recharge rate)
- alphabetized the definitions
- added definitions
- reworded language for clarification
- updated language for clarification
- updated rule cross-reference

**Comments may be submitted to:** *Linwood Peel, NC DEQ-DWR Planning Section, 1611 Mail Service Center, Raleigh, NC 27699-1611; phone (919) 707-9024; email linwood.peele@ncdenr.gov*

**Comment period ends:** *July 2, 2021*

**Procedure for Subjecting a Proposed Rule to Legislative**

**Review:** If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

**Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.**

- ☐ State funds affected
- ☐ Local funds affected
- ☐ Substantial economic impact ( $\geq$  \$1,000,000)
- ☒ Approved by OSBM
- ☒ No fiscal note required

**CHAPTER 02 - ENVIRONMENTAL MANAGEMENT**

**SUBCHAPTER 02E - WATER USE REGISTRATION AND ALLOCATION**

**SECTION .0100 - GENERAL PROVISIONS**

**15A NCAC 02E .0106 DEFINITIONS (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

As used herein, unless the context otherwise requires:

- (1) "Director" means the Director of the Division of Water Resources.
- (2) "Division" means the Division of Water Resources.

*Authority G.S. 87-87; 143-215.14; 143-215.21.*

**15A NCAC 02E .0107 DELEGATION (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

- (a) The Director is delegated the authority to grant, modify, revoke or deny permits under G.S. 143-215.15 and G.S. 143-215.16.
- (b) The Director may delegate any permitting function given by the Rules of this Subchapter.
- (c) The Director is delegated the authority to assess civil penalties and request the Attorney General to institute civil actions under G.S. 143-215.17.
- (d) The Director is delegated the authority to process applications and collect fees for registration of water withdrawals and transfers under G.S. 143-215.22H and G.S. 143-215.3(a)(1b).
- (e) The Director may delegate any water withdrawal or transfer registration processing functions given by the Rules of this Subchapter.

*Authority G.S. 143-215.3(a)(1); 143-215.3(a)(4).*

**SECTION .0300 - REGISTRATION OF WATER WITHDRAWALS AND TRANSFERS**

**15A NCAC 02E .0301 APPLICATION; PROCESSING FEES**

(a) Any person subject to G.S. 143-215.22H, shall complete, sign, and submit an application for registration, on a form provided by the Department, to the Director of the Division of Water Resources. The registration application and registration processing fee as set forth in Paragraph (b) of this Rule (~~if applicable~~) shall be mailed to the Division of Water Resources, North Carolina Department of ~~Environment, Health, and Natural Resources, Post Office Box 27687, Raleigh, North Carolina 27611-7687~~ Environmental Quality, mailing address shall be provided by Division of Water Resources.

(b) Except as otherwise provided in this Rule, a non-refundable registration processing fee in the amount of fifty dollars (\$50.00) shall be paid when the registration application form is submitted.

(1) No registration application form is complete until the registration processing fee is paid.

(2) ~~Each facility from which a person withdraws or transfers one million gallons per day or more must be separately registered. The registration application for each facility to be registered must include the fee in the amount set forth in this Rule.~~

(3)(2) ~~A late registration fee in the amount of five dollars (\$5.00) per day for each day the registration of a water transfer or withdrawal is late, up to a maximum of five hundred dollars (\$500.00), shall be assessed as a penalty for failure to register the water transfer or withdrawal in a timely manner. The penalty pursuant to G.S. 143-215.22H(e) shall stop stops accruing on the date of receipt of the completed registration application by the Division of Water Resources.~~

(4)(3) Payment of the registration processing fee may be by check or money order made payable to the "N. C. Department of Environment, Health,

~~and Natural Resources."~~ "N. C. Department of Environmental Quality." The check or money order shall refer to the water withdrawal or transfer registration application.

(c) Except as otherwise provided in this Rule, upon receipt of a ~~properly~~ completed application form and the registration processing fee, the applicant shall be issued a receipt of registration.

(d) Pursuant to G.S. 143-215.3(a)(1a), and G.S. 143-215.22H, no fees including late registration fees for failing to register or update registrations in a timely manner, are required to be paid under this Rule by a farmer ~~who submits an application for or an update of a registration of a withdrawal or transfer that pertains to farming operations. Upon receipt of a properly completed application from a farmer, the applicant will be issued a receipt of registration whose activities are directly related or incidental to the production of crops, fruits, vegetables, ornamental and flowering plants, dairy products, livestock, poultry, and other agricultural products, or to the creation or maintenance of waterfowl impoundments.~~

~~(e) Pursuant to G.S. 143-215.22H(e), separate registration of a water withdrawal or transfer is not required of a local government that completes and periodically revises and updates its water supply plan pursuant to G.S. 143-355(l).~~

~~(f) Any person who withdraws or transfers one million gallons or more in any single day must register the withdrawal or transfer.~~

Authority G.S. 143-215.3(a)(1a); 143-215.3(a)(1b); 143-215.22H; 143-355(1).

## SECTION .0500 - CENTRAL COASTAL PLAIN CAPACITY USE AREA

### 15A NCAC 02E .0501 DECLARATION AND DELINEATION OF CENTRAL COASTAL PLAIN CAPACITY USE AREA

The area encompassed by the following 15 North Carolina counties and adjoining creeks, streams, and rivers is hereby declared and delineated as the Central Coastal Plain Capacity Use Area:

- (1) Beaufort
- (2) Carteret
- (3) Craven
- (4) Duplin
- (5) Edgecombe
- (6) Greene
- (7) Jones
- (8) Lenoir
- (9) Martin
- (10) Onslow
- (11) Pamlico
- (12) Pitt
- (13) Washington
- (14) Wayne; and
- (15) Wilson.

~~The Environmental Management Commission finds that the~~ The use of ground water requires coordination and limited regulation in this delineated area for protection of the public interest. The intent ~~of this Section~~ is to protect the long -term productivity of aquifers within the designated area and to allow the use of ground

water for ~~beneficial~~ uses at rates which do not exceed or threaten to exceed the recharge rate of the aquifers within the designated area.

Authority G.S. 143-215.13.

### 15A NCAC 02E .0502 WITHDRAWAL PERMITS

~~(a) Existing ground water withdrawal permits issued in Capacity Use Area No. 1 (15A NCAC 02E .0200) within the Central Coastal Plain Capacity Use Area are reissued under Section .0500 of this Subchapter and are valid until the expiration date specified in each permit. Water use permits are no longer required for withdrawals in Hyde and Tyrrell Counties as of the effective date of this Rule. Permits are not required for surface water use under Section .0500 of this Subchapter in the Central Coastal Plain Capacity Use Area as delineated in Rule .0501 of this Section.~~

(b) No person shall withdraw ground water ~~after the effective date of this Rule~~ in excess of 100,000 gallons per day by a well, group of wells operated as a system, or sump for any purpose unless ~~such person shall first obtain~~ he or she obtains a water use permit from the Director. ~~Existing withdrawals of ground water as of the effective date of this Rule and proposed withdrawals previously approved for funding appropriated pursuant to the "Clean Water and Natural Gas Critical Needs Bond Act of 1998" or other local, state or federally funded projects as of the effective date of this Rule shall be allowed to proceed with construction or to continue to operate under interim status until a permit has been issued or denied by the Director, provided that persons withdrawing in excess of 100,000 gallons per day by a well, group of wells operated as a system, or sump comply with the following requirements:~~

- ~~(1) Persons conducting withdrawals in the Capacity Use Area that require a permit shall submit a permit application to the Division of Water Resources within 180 days of the effective date of this Rule.~~
- ~~(2) Persons who have submitted applications shall provide any additional information requested by the Division of Water Resources for processing of the permit application within 30 days of the receipt of that request.~~
- ~~(3) Persons conducting withdrawals in the Capacity Use Area that require a permit shall submit water level and water use data on a form supplied by the Division four times a year, within 30 days of the end of March, June, September, and December until a permit has been issued or denied by the Division of Water Resources.~~

(c) No ground water withdrawal shall result in adverse impacts, including dewatering of aquifers, encroachment of salt water, land subsidence or sinkhole development, or decline in aquifer water levels that indicate aggregate water use exceeds the aquifer recharge rate. Ground water withdrawals shall be governed by the following standards:

- (1) Adverse impacts of ground water withdrawals shall be avoided or minimized. Adverse impacts include, but are not limited to:
  - (A) dewatering of aquifers;



- ~~(B) encroachment of salt water;~~
- ~~(C) land subsidence or sinkhole development; or~~
- ~~(D) declines in aquifer water levels that indicate that aggregate water use exceeds the aquifer replenishment rate.~~

- ~~(2) Adverse impacts on other water users from ground water withdrawals shall be corrected or minimized through efficient use of water and development of sustainable water sources.~~
- ~~(3) In determining the importance and necessity of a proposed withdrawal the efficiency of water use and implementation of conservation measures shall be considered.~~

(d) An application for a water use permit must be submitted on a form ~~approved by the Director~~ to the North Carolina Division of Water Resources. The application shall describe the purpose or purposes for which water shall be used, shall set forth the method and location of withdrawals, shall justify the quantities needed, and shall document water conservation measures to be used by the applicant to ensure efficient use of water and avoidance of waste. Any other information necessary to determine whether to grant or deny an application as requested by the Division shall be submitted to the Division within 30 days of the request. Withdrawal permit applications shall include the following information:

- (1) location ~~Location~~ by latitude and longitude of all wells to be used for withdrawal of ~~water~~ water and all other wells within 1500 feet of the applicant's wells;
- (2) specifications ~~Specifications~~ for design and construction of existing and proposed production and monitoring wells ~~including~~ including well diameter, total depth of well, depths of all open hole or screened intervals that will yield water to the well, depth of pump intake(s), size, capacity, and type of pump, depth to gravel pack, and depth measurements shall be within accuracy limits of plus or minus 0.10 feet and referenced to a known land surface elevation;
  - ~~(A) Well diameter;~~
  - ~~(B) Total depth of the well;~~
  - ~~(C) Depths of all open hole or screened intervals that will yield water to the well;~~
  - ~~(D) Depth of pump intake(s);~~
  - ~~(E) Size, capacity and type of pump;~~
  - ~~(F) Depth to top of gravel pack; and~~
  - ~~(G) Depth measurements shall be within accuracy limits of plus or minus 0.10 feet and referenced to a known land surface elevation.~~

Exceptions may be made where specific items of information are not critical, as determined by the Director, to manage the ground water resource;

- (3) ~~withdrawal~~ Withdrawal permit applications for use of ground water from the Cretaceous aquifer system shall be reviewed recognizing the Cretaceous aquifer system zones, include plans to reduce water use from these aquifers as specified in Rule .0503 of this Section. ~~Withdrawal rates from the Cretaceous aquifer system that exceed the approved base rate may be permitted during Phase I of Rule .0503 of this Section if the applicant can demonstrate to the Director's satisfaction a need for the greater amount.~~ Cretaceous aquifer system wells shall be identified using the specifications in Rule .0502(d)(1) and .0502(d)(2) of this Section and the hydrogeological framework;

- (4) ~~withdrawal~~ Withdrawal permit applications for dewatering of mines, pits or quarries shall include a dewatering or depressurization plan that includes:

- (A) the current withdrawal rate or estimates of the proposed withdrawal rate;
- (B) the location, design and specifications of any sumps, drains or other withdrawal sources including wells and trenches;
- (C) the lateral extent and depth of the zone(s) to be dewatered or depressurized;
- (D) location by latitude and longitude of all wells within 1500 feet of the excavation boundary;
- ~~(E)(D)~~ a monitoring plan that provides data to delineate the nature and extent of dewatering or depressurization; and
- ~~(F)(E)~~ certification of all engineering plans and hydrogeological analyses prepared to meet these requirements consistent with professional licensing board statutes and rules governing such activities.

Exceptions may be made where specific items of information are not critical, as determined by the Director, to manage the ground ~~water~~ water resource; and

- (5) ~~conservation measures; the~~ The applicant shall provide information on existing conservation measures and conservation measures to be implemented during the permit period as follows:

- (A) Public water supply systems shall develop and implement a ~~feasible~~ water conservation plan incorporating, at a minimum, the following components. Each component shall be described, including a timetable for implementing each component that does not already exist.

- (i) ~~adoption~~ Adoption of a water conservation-based rate structure, such as ÷ flat rates, increasing block rates, seasonal rates, or quantity-based surcharges; ~~surcharges.~~
  - (ii) implementation ~~Implementation~~ of a water loss reduction program if unaccounted for water is greater than 15 percent of the total amount produced, as documented annually using a ~~detailed~~ water audit. Water loss reduction programs shall consist of annual water audits, in-field leak detection, and leak repair; ~~repair.~~
  - (iii) adoption ~~Adoption~~ of a water conservation ordinance for irrigation, ~~including such measures as:~~ as time-of-day and day-of-week restrictions on lawn and ornamental irrigation, irrigation or automatic irrigation system shut-off devices; or other appropriate measures.
  - (iv) implementation ~~Implementation~~ of a retrofit program that makes available indoor water conservation devices to customers, such ~~(such as showerheads, toilet flappers, and faucet aerators; aerators).~~
  - (v) implementation ~~Implementation~~ of a public education program, such ~~(such as water bill inserts, school and civic presentations, water treatment plant tours, and public services announcements; and announcements, or other appropriate measures).~~
  - (vi) evaluation ~~Evaluation~~ of the feasibility of water reuse as a means of conservation, where applicable.
- (B) Users of water for commercial purposes, other than irrigation of crops and forestry stock, shall develop and implement a water conservation plan as follows:
- (i) an audit of water use by type of activity, such as process make up water and non-contact cooling water, activity (for example, process make up water, non-contact cooling water) including existing and potential conservation and reuse measures for each type of water use; and
  - (ii) an implementation schedule for feasible measures identified in the above item for conservation and reuse of water at the facility.
- (C) Users of water for irrigation of crops and forestry stock shall provide the following information:
- (i) total acreage with irrigation available;
  - (ii) types of crops that may be irrigated;
  - (iii) method of irrigation such as ~~(for example,~~ wells that supply water to canals, ditches or central pivot systems or any other irrigation method using ground water); and
  - (iv) a statement that the applicant uses conservation practice standards for irrigation as defined by the Natural Resources Conservation Service.
- (6) if ~~If~~ an applicant intends to operate an aquifer storage and recovery program (ASR), the applicant shall provide information on the storage zone, including the depth interval of the storage zone, lateral extent of the projected storage area, construction details of wells used for injection and withdrawal of water, and performance of the ASR program.
- ~~(e) The Director shall issue, modify, revoke, or deny each permit as set forth in G.S. 143-215.15. Permittees may apply for permit modifications. Any application submitted by a permittee shall be subject to the public notice and comment requirements of G.S. 143-215.15(d).~~
- ~~(f) Permit duration shall be set by the Director as described in G.S. 143-215.16(a). Permit transferability is established in G.S. 143-215.16(b).~~
- ~~(e)(g)~~ Persons holding a permit shall submit signed water usage and water level reports to the Director not later than 30 days after the end of each permit reporting period as specified in the permit. Monitoring report requirements shall ~~may~~ include:
- (1) amounts ~~Amounts~~ of daily withdrawal from each well; ~~well.~~

- (2) ~~pumping~~ Pumping and static water levels for each supply well as measured with a steel or electric tape, or an alternative method as specified in the permit, at time intervals specified in the ~~permit; permit.~~
- (3) ~~static~~ Static water levels in observation wells at time intervals specified in the ~~permit; permit.~~
- (4) ~~annual~~ Annual sampling by applicants located in the salt water encroachment zone and chloride concentration analysis by a State certified ~~laboratory; and laboratory.~~
- (5) ~~any~~ Any other information the Director determines to be pertinent and necessary to the evaluation of the effects of ~~withdrawals; withdrawals during the application review process.~~

~~(f)(4)~~ Water use permit holders shall not add new wells without prior approval from the ~~Director.~~ Director through a permit modification.

~~(g)(4)~~ The Director may require permit holders to construct observation wells to observe water level and water quality conditions before and after water withdrawals begin if there are concerns about adverse impacts to the aquifer based on the withdrawal amount and location. ~~there is a demonstrated need for aquifer~~ Aquifer monitoring may be necessary to assess the impact of the withdrawal on the aquifer.

~~(h)(4)~~ For all water uses other than dewatering of mines, pits or quarries, withdrawals shall be permitted only from wells that are constructed such that the pump intake or intakes are at a shallower depth than the top of the uppermost confined aquifer that yields water to the well. Confined aquifer tops are established in the hydrogeological framework. Where wells in existence as of the effective date of this Rule are not in compliance with the requirements of this provision, the permit shall include a compliance schedule for retrofitting or replacement of non-compliant wells. Withdrawals from unconfined aquifers shall not lower the water table by an amount large enough to decrease the effective thickness of the unconfined aquifer by more than 50 percent.

~~(i)(4)~~ For withdrawals to dewater mines, pits or quarries, the permit shall delimit the extent of the area and depths of the aquifer(s) to be dewatered or depressurized. Maximum withdrawal rates and the permissible extent of dewatering or depressurization shall be determined by the Director using data provided by the applicant, data related to permits under G.S. 74-50, 74-47, and other publicly available information. Withdrawal rates that do not cause adverse impacts, as defined in Rule .0502(c) of this Section, shall be approved.

~~(j)(4)~~ Withdrawals of water that cause changes in water quality such that the available uses of the resource are adversely affected, by dewatering or salt water encroachment, shall not be permitted. ~~For example, withdrawals shall not be permitted that result in migration of ground water that contains more than 250 milligrams per liter chloride into pumping wells that contain chloride at concentrations below 250 milligrams per liter.~~

~~(k)(m)~~ General permits may be developed by the Division and issued by the Director for categories of withdrawal that involve the same or substantially similar operations, have similar

withdrawal characteristics, require the same limitations or operating conditions, and require similar monitoring.

~~(l)(n)~~ Permitted water users may withdraw and sell or transfer water to other users provided that their permitted withdrawal limits are not exceeded.

~~(m)(o)~~ A permitted water user may ~~sell or~~ transfer to other users a portion of his permitted withdrawal. To carry out such a transfer, the original permittee must request a permit modification to reduce his permitted withdrawal and the proposed recipient of the transfer must apply for a new or amended withdrawal permit. ~~permit under Section .0500 of this Subchapter.~~

~~(n)(p)~~ The Director shall issue a temporary permit when the following conditions are met:

- (1) ~~Where an applicant or a permit holder can demonstrate~~ demonstrates that compliance with water withdrawal limits established pursuant to this Section under Section .0500 of this Subchapter is not possible because of construction schedules, requirements of other laws, or other reasons beyond the control of the applicant or permit holder; ~~holder, and where~~
- (2) ~~the applicant or permit holder has made good faith efforts to conserve water and to plan the develop ment of other water sources, and sources, the Director may issue a temporary permit with an alternative schedule to attain compliance with provisions of Section .0500 of this Subchapter, as authorized in G.S. 143-215.15(e)(ii).~~
- (3) the applicant or permit holder provides data from monitoring wells which support a higher withdrawal rate which does not exceed the recharge rate.

Authority G.S. 143-215.14; 143-215.15; 143-215.16.

#### **15A NCAC 02E .0503 PRESCRIBED WATER USE REDUCTIONS IN CRETACEOUS AQUIFER ZONES**

Cretaceous aquifer water use shall be reduced in prescribed areas over a 16 year period, starting from approved base rates on the effective date of this Rule. The Cretaceous aquifer system zones and the three phases of water use reductions are listed as follows:

- (1) ~~Cretaceous aquifer system zones are regions established in the fresh water portion of the Cretaceous aquifer system that delimit zones of salt water encroachment, dewatering and declining water levels. These zones are designated on the paper and digital map entitled "Central Coastal Plain Capacity Use Area Cretaceous Aquifer Zones" (CCPCUA) on file in the Office of the Secretary of State one week prior to the effective date of these Rules~~
- (2) ~~The reductions specified in this Rule do not apply to intermittent users.~~
- (3) ~~If a permittee implements an aquifer storage and recovery program (ASR), reduction requirements will be based on the total net withdrawals. The reductions specified in this Rule do not apply if the volume of water~~

- injected into the aquifer is greater than the withdrawal volume. If the withdrawal volume is greater than the injected volume, reductions specified in this Rule apply to the difference between the withdrawal volume and the injected volume.
- (4) The reductions specified in this Rule shall not reduce permitted water use rates below 100,001 gallons per day.
- (5) Phase definitions:
- (a) Phase I: The six year period extending into the future from the effective date of this Rule.
- (b) Phase II: The five year period extending into the future from six years after the effective date of this Rule to 11 years after the effective date of this Rule.
- (c) Phase III: The five year period extending into the future from 11 years after the effective date of this Rule to 16 years after the effective date of this Rule.
- (6) Phase reductions:
- (a) Phase I:
- (i) At the end of the Phase I, permittees who are located in the dewatering zone shall reduce annual water use from Cretaceous aquifers by 25% from their approved base rate.
- (ii) At the end of the Phase I, permittees who are located in the salt water encroachment zone shall reduce annual water use from Cretaceous aquifers by 25% from their approved base rate.
- (iii) At the end of the Phase I, permittees who are located in the declining water level zone shall reduce annual water use from Cretaceous aquifers by 10% from their approved base rate.
- (b) Phase II:
- (i) At the end of the Phase II, permittees who are located in the dewatering zone shall reduce annual water use from Cretaceous aquifers by 50% from their approved base rate.
- (ii) At the end of the Phase II, permittees who are located in the salt water encroachment zone shall reduce annual water use from Cretaceous aquifers by 50% from their approved base rate.
- (iii) At the end of the Phase II, permittees who are located in the declining water level zone shall reduce annual water use from Cretaceous aquifers by 20% from their approved base rate.
- (c) Phase III:
- (i) At the end of the Phase III, permittees who are located in the dewatering zone shall reduce annual water use from Cretaceous aquifers by 75% from their approved base rate.
- (ii) At the end of the Phase III, permittees who are located in the salt water encroachment zone shall reduce annual water use from Cretaceous aquifers by 75% from their approved base rate.
- (iii) At the end of the Phase III, permittees who are located in the declining water level zone shall reduce annual water use from Cretaceous aquifers by 30% from their approved base rate.
- (7) The CCPCUA Cretaceous Aquifer Zones map shall be updated, if necessary, in the sixth, eleventh, and sixteenth years following the effective date of this Rule to account for aquifer water level responses to phased withdrawal reductions. The map update shall be based on the following conditions:
- (a) Rate of decline in water levels in the aquifers;
- (b) Rate of increase in water levels in the aquifers;
- (c) Stabilization of water levels in the aquifers; and
- (d) Chloride concentrations in the aquifers.
- This aquifer information shall be analyzed on a regional scale and used to develop updated assessments of aquifer conditions in the Central Coastal Plain Capacity Use Area. The Environmental Management Commission (EMC) may adjust the aquifer zones and the water use reduction percentages for each zone based on the assessment of conditions. The EMC shall adopt the updated map and reduction percentage changes after public hearing.
- (8) The reductions specified in this Rule do not apply to wells exclusively screened or open to the Pee Dee aquifer.
- (9) An applicant may submit documentation supporting the exemption of a well located in the Declining Water Level Zone from the

~~withdrawal reductions specified in this Rule. This documentation must include a record of monthly static water levels from that well over at least a three year period, ending with the month when the request for exemption is submitted. The Director may exempt a well from reductions if the water level history shows no pattern of decline during this three year period. A well previously exempted from the withdrawal reductions shall become subject to the reduction if water levels begin to show a pattern of decline.~~

*Authority G.S. 143-215.15.*

**15A NCAC 02E .0504 REQUIREMENTS FOR ENTRY AND INSPECTION**

(a) The Division may enter and inspect property in order to evaluate wells, pumps, metering equipment or other withdrawal or measurement devices and records of water withdrawals and water levels, if:

- (1) Persons conduct an activity that the Division believes requires the use of water at quantities that subject the person subject to regulation under these Rules;
- (2) A permittee or applicant has not provided data or information on use of water and wells and other water withdrawal facilities as required by these Rules; or
- (3) Water levels and chloride concentrations at the person's facility, or at nearby facilities and/or or monitoring stations, indicate that aquifers may be damaged by overpumping, ~~overpumping~~ or salt water encroachment, or other adverse impacts ~~affects~~ that may be attributed to withdrawal by the person.

(b) All information submitted to fulfill the requirements of these Rules, or to obtain a permit under these Rules, or obtained by inspection under these Rules, shall be treated as Confidential Business Information, if requested by the applicant, and found to be such by the Division. Reports defined in Rule .0502(e) ~~.0502(g)~~ of this Section are not considered Confidential Business Information.

*Authority G.S. 143-215.19.*

**15A NCAC 02E .0505 ACCEPTABLE WITHDRAWAL METHODS THAT DO NOT REQUIRE A PERMIT**

(a) ~~As of the effective date of this Rule, any~~ Any person who is not subject to Rule .0502 of this Section and withdraws more than 10,000 gallons per day from surface or ground water in the Central Coastal Plain Capacity Use Area, shall register such withdrawals on a form supplied by the Division and comply with the following provisions:

- (1) construct ~~Construct~~ new wells such that the pump intake or intakes are above the top of the uppermost confined aquifer that yields water to the well. Confined aquifer tops are established in the hydrogeological framework;

- (2) report ~~Report~~ surface and ground water use to the Division of Water Resources on an annual basis on a form supplied by the Division; and
- (3) withdraw ~~Withdraw~~ water in a manner that does not damage the aquifer, ~~aquifer~~ or cause salt water encroachment, ~~encroachment~~ or other adverse impacts.

(b) Requirements of this Rule ~~These requirements~~ do not apply to withdrawals to supply an individual domestic dwelling.

(c) ~~Agricultural water users may either register water use with the Division of Water Resources as provided in this Rule or provide the information to the North Carolina Department of Agriculture and Consumer Services.~~

*Authority G.S. 143-215.14; 143-355(k).*

**15A NCAC 02E .0506 CENTRAL COASTAL PLAIN CAPACITY USE AREA STATUS REPORT**

~~Within two years of the effective date of this Rule, and at five-year intervals thereafter, the Division of Water Resources shall publish a status report on the Central Coastal Plain Capacity Use Area. The report shall include the following:~~

- (1) ~~Compilations of water use data;~~
- (2) ~~Evaluations of surface and ground water resources;~~
- (3) ~~Updated information about the hydrogeologic framework in the Central Coastal Plain Capacity Use Area;~~
- (4) ~~A summary of alternative water sources and water management techniques that may be feasible by generalized geographic location; and~~
- (5) ~~A status report on actions by water users to develop new water sources and to increase water use efficiency.~~

*Authority G.S. 143-215.14.*

**15A NCAC 02E .0507 DEFINITIONS**

The following is a list of definitions for terms found in Section .0500 of this Subchapter:

- (1) Approved base rate: The larger of a person's January 1, 1997 through December 31, 1997 or August 1, 1999 through July 31, 2000 annual water use rate from the Cretaceous aquifer system, or an adjusted water use rate determined by through negotiation with the Division based upon documentation of the following information: using documentation provided by the applicant of:
  - (a) water use reductions made since January 1, 1992;
  - (b) use of wells for which funding has been approved or for which plans have been approved by the Division of Environmental Health Department of Environmental Quality ~~by the~~ effective date of this Rule August 1, 2002;

- (c) the portion of a plant nursery operation using low volume micro-irrigation; or
- (d) other ~~relevant~~ information pertaining to water use during the time periods specified.
- (2) Aquifer: Water-bearing earth materials that are capable of yielding water in usable quantities to a well or spring.
- (3) Aquifer recharge: Precipitation that infiltrates into the subsurface.
- (4)(3) Aquifer storage and recovery program (ASR): Controlled injection of water into an aquifer with the intent to store water in the aquifer for subsequent withdrawal and use.
- (5)(4) Confining unit: A geologic formation that does not yield usable ~~economically practical~~ quantities of water to wells or springs. Confining units separate aquifers and slow the movement of ground water.
- (6)(5) Cretaceous aquifer system: A system of aquifers in the North Carolina coastal plain that is comprised of water-bearing earth materials deposited during the Cretaceous period of geologic time. The extent of the Cretaceous Aquifer System is defined in the hydrogeological framework and includes the Peedee, Black Creek, Upper Cape Fear and Lower Cape Fear aquifers.
- (7) Cretaceous aquifer system zones: Regions established in the fresh water portion of the Cretaceous aquifer system that delimit zones of salt water encroachment, dewatering and declining water levels. These zones are designated on the paper and digital map entitled "Central Coastal Plain Capacity Use Area Cretaceous Aquifer Zones" (CCPCUA) on file in the Office of the Secretary of State. These zones encompass areas sensitive to over-development because aquifer withdrawal rates can exceed recharge rates. Between August 1, 2002 and July 31, 2019 Cretaceous Aquifer system zone users were required to reduce withdrawals from their Approved Base Rates up to 30% in the declining water level zone and up to 75% in the dewatering and salt water encroachment zones. The reductions came about through large investments by water users in alternative water sources and water treatment systems. Intermittent users were not required to reduce withdrawals. Users of wells exclusively screened or open to the Peedee aquifer were not required to reduce withdrawals.
- (8)(6) Dewatering: Dewatering occurs when aquifer water levels are depressed below the top of a confined aquifer or water table declines adversely ~~impact~~ affect the resource.
- (9)(7) Flat rates: Unit price remains the same regardless of usage within customer class.
- (10)(8) Fresh water: Water containing chloride concentrations ~~equal to or~~ equal to and less than 250 milligrams per liter.
- (11)(9) Gravel pack: Sand or gravel sized material inside the well bore and outside the well screen and casing.
- (12)(40) Ground water: Water in pore spaces or void spaces of subsurface sediments or consolidated rock.
- (13)(44) Hydrogeological framework: A three-dimensional representation of aquifers and confining units that is stored in Division data bases and may be adjusted by applicant supplied information.
- (14)(42) Increasing block rates: Unit price increases with additional usage.
- (15)(43) Intermittent users: Persons who withdraw ground water less than 60 days ~~per calendar year and or who withdraw~~ less than 15 million gallons of ground water in a calendar year; or aquaculture operations registered by the Board of Agriculture in accordance with G.S. 106-761 licensed under the authority of G.S. 106-761 using water for the initial filling of ponds or refilling of ponds no more frequently than every five years.
- (16)(44) Observation well: A non-pumping well screened in a particular aquifer where water levels can be measured and water samples can be obtained.
- (17)(45) Pumping water level: The depth to ground water in a pumping well as measured from a known land surface elevation. Measurements shall be made four hours after pumping begins. Measurements shall be within accuracy limits of plus or minus 0.10 feet.
- (18)(46) Quantity based surcharges: Surcharges billed with usage over a certain determined quantity.
- (19)(47) Recharge rate: The rate of which water replenishes an aquifer. Recharge rates for the Cretaceous aquifer system vary depending on the thickness and hydraulic conductivity of the overlying sedimentary layers. A best fit line through water levels from the Division operated monitoring wells over a given time interval will show if withdrawals exceed, are less than, or are equal to the aquifer recharge rate.
- (20)(47) Salt water: Water containing chloride concentrations equal to and in excess of 250 milligrams per liter.
- (21)(48) Salt water encroachment: The lateral or vertical migration of salt water toward areas occupied by fresh water. This may occur in aquifers due to natural or man-made causes.
- (22)(49) Seasonal rates: Unit price changes ~~prices~~ change according to the season.
- (23)(20) Static water level: The depth to ground water in a non-pumping well as measured from a known land surface elevation. Measurements shall be

made after pumping has ceased for 12 hours. Measurements shall be within accuracy limits of plus or minus 0.10 feet.

~~(24)(21)~~ Unaccounted for water: The difference between the total water entering the system, including produced and purchased, system (produced and purchased) and the total metered or otherwise accounted for water usage.

~~(25)(22)~~ Water table: The water level in an unconfined aquifer.

*Authority G.S. 143-215.14.*

## **SECTION .0600 – WATER USE DURING DROUGHTS AND WATER SUPPLY EMERGENCIES**

### **15A NCAC 02E .0601 SCOPE (READoption WITHOUT SUBSTANTIVE CHANGES)**

The purpose of this Section is to minimize harmful impacts of drought and water supply emergencies on public health and safety, environmental quality, and the economy by establishing minimum standards and practices for water shortage response planning, water use reporting, water conservation, and water reuse during droughts and water supply emergencies.

*Authority G.S. 143-354(a)(1); 143-354(a)(8); S.L. 2002-167.*

### **15A NCAC 02E .0602 DEFINITIONS**

The following definitions shall apply for the purposes of this Section,

~~(9)(1)~~ "Council" and "NCDMAC" mean the North Carolina Drought Management Advisory Council.

~~(8)(2)~~ "Department" means the North Carolina Department of ~~Environment and Natural Resources (DENR)~~ Environmental Quality (DEQ).

~~(10)(3)~~ "Drought Advisory" means an advisory issued by the NCDMAC that delineates the geographic extent and severity of a water deficit significant enough to have social, environmental or economic effects. Drought Advisories shall be designated as Abnormally Dry, Moderate Drought, Severe Drought, Extreme Drought and Exceptional Drought to indicate the severity of conditions from least to most severe, respectively.

~~(4)~~ "Effective" means successful in producing the desired or intended result.

~~(5)~~ "Efficient" achieving maximum productivity with minimum wasted effort or expense.

~~(6)~~ "Efficient use" is reducing water wastage by measuring the amount of water required for a particular purpose and the amount of water used or delivered.

~~(4)(7)~~ "Essential water use" means the use of water necessary for fire fighting, health and safety purposes; water needed to sustain human and animal life; and water necessary to satisfy

federal, state and local public health, safety or environmental protection requirements.

~~(8)~~ "Industry Best Management Practices" are methods that have been determined to be the most effective and practical means of completing a task.

~~(9)~~ "Industry Standards" are a set of criteria within an industry relating to the standard functioning and carrying out of operations in their respective fields of production.

~~(10)~~ "Normal Operating Procedures (NOPs)" is a set of step-by-step instructions compiled by an organization to help workers carry out complex routine operations. NOPs aim to achieve efficiency, quality output and uniformity of performance, while reducing miscommunication and failure to comply with industry regulations.

~~(5)(11)~~ "Non-essential water use" means categories of water use, other than essential water use, that may be curtailed during droughts and water emergencies.

~~(2)(12)~~ "Person" means any individual, corporation, company, association, partnership, unit of local government, state agency, federal agency, or other legal entity.

~~(13)~~ "Privately owned" are water systems that can be for-profit systems managed by investors or shareholders.

~~(14)~~ "Publicly owned" are water systems that are usually non-profit entities managed by local or state governments, for which rates are set by a governing board.

~~(6)(15)~~ "State agencies" includes all agencies of the executive branch of the government of North Carolina, the General Assembly, the General Court of Justice, and the University of North Carolina.

~~(14)(16)~~ "Syringing" means the application of ~~a small volume of water, usually~~ 0.10 inch or less of water, near midday to correct plant water deficits, reduce plant tissue temperatures and reduce the heat stress on turfgrass plants.

~~(7)(17)~~ "Unit of local government" means a county, city, town, incorporated village, consolidated city-county, sanitary district or other local political subdivision, or authority or agency of local government.

~~(4)(18)~~ "Water" means any waters of the State located on or below the land surface as well as water contained within a water treatment and distribution system.

~~(3)(19)~~ "Water delivery system" means any open or closed conveyance system used to move water for potable or non-potable purposes from its point of origin to a point of use, including: municipal water systems; residential, commercial, industrial, and commercial

plumbing systems; irrigation systems; water using equipment; and flexible hoses.

*Authority G.S. 143-354(a)(8); S.L. 2002-167.*

**15A NCAC 02E .0603 GENERAL INFORMATION**

(a) The provisions of this Section apply to the following classes of water users:

- (1) Publicly owned and privately owned water supply systems;
- (2) State agencies;
- (3) Units of local government;
- (4) Business and industrial water users; and
- (5) Agricultural and horticultural water users.

~~(b) This Section does not prevent owners and operators of a water delivery system or other persons from developing, implementing and requiring water use measures in response to droughts or emergency water shortages that are more restrictive than the specified response measures in Rules .0612 through .0614.~~

(b) All owners and operators of a water delivery system may develop, implement, and require more stringent standards than those set forth in Rules .0612 through .0614 of this Section in response to droughts or emergency water shortages.

(c) All established and new uses of reclaimed water, consistent with the provisions of 15A NCAC ~~02H .0200~~ 02U .0100 and any successive rules and amendments that define and the use of reclaimed water, as administered by the Department's Division of Water Resources Quality, shall be exempt from the requirements set forth in this Section.

*Authority S.L. 2002-167.*

**15A NCAC 02E .0604 ANNUAL REPORTING OF WATER USE DATA (READoption WITHOUT SUBSTANTIVE CHANGES)**

In order to improve the availability of data for the development of the State water supply plan to be used when managing water resources during drought and water supply emergencies and to provide a basis for evaluating the effectiveness of emergency water conservation measures, the following data reporting requirements have been established:

- (1) Water systems that are required to prepare a Local Water Supply Plan under G.S. 143-355(l) shall, irrespective of the issuance of a drought advisory, annually report to the Department the following information:
  - (a) Water system identification information;
  - (b) Annual average daily water use (total amount of surface and ground water withdrawn as well as water supplied by another system) by the water system, in million gallons per day (MGD);
  - (c) The average daily water use (total amount of surface and ground water withdrawn as well as water supplied by another system) for each month of

the prior calendar year, in million gallons per day (MGD);

(d) The number of connections for residential, industrial, commercial and institutional metered and non-metered water use, as of December 31<sup>st</sup> of the reporting year;

(e) The annual average daily water use in million gallons per day (MGD) categorized by residential, industrial, commercial, institutional water uses and sales to other systems to the extent that this information by category is available; and

(f) Water used by the system, in addition to the amount delivered to customers, to meet water treatment and distribution requirements, in million gallons per day (MGD).

(2) All persons that are required to register water withdrawals and transfers under G.S. 143-215.22H, who are not subject to Item (1) of this Rule, shall annually report to the Department monthly average water use in million gallons per day (MGD) for each month. The following information shall be reported:

- (a) Owner and facility identification information;
- (b) Sources of water withdrawn;
- (c) Number of days water was withdrawn for each month; and
- (d) Average daily withdrawal for the actual number of days water was withdrawn each month, in million gallons per day (MGD).

(3) Data shall be submitted electronically. Water users that exhibit to the Division of Water Resources an inability to submit data electronically may submit data in writing on a form supplied by the Department.

(4) Data shall be submitted to the Department by April 1<sup>st</sup> of each year for the period of January 1<sup>st</sup> to December 31<sup>st</sup> of the prior year.

*Authority G.S. 143-355(k); 143-355(l); 143-354(a).*

**15A NCAC 02E .0605 WATER USE REDUCTION REPORTING, NEW WATER WITHDRAWAL REPORTING AND REGIONAL COORDINATION DURING DROUGHTS**

In order to promote regional cooperation for the equitable use of water resources during a drought or other water supply emergency, all persons, as specified below, shall comply with the following reporting and coordination procedures:

- (1) Publicly and privately owned community water systems and units of local government shall report to the Division of Water Resources the implementation of mandatory water



conservation measures within 72 hours of their initial enactment.

- (2) All persons that intend to make a new water withdrawal, ~~which that~~ has not previously been registered under G.S. 143-215.22H, of 100,000 gallons or more in an area designated by the Council as suffering from Extreme or Exceptional Drought shall report to the Division of Water Resources, by the same means outlined in ~~Item (3) of Rule .0604, Rule .0604(3) of this Section,~~ the following information at least seven days prior to the withdrawal:
  - (a) Contact information for the person making the water withdrawal;
  - (b) Source(s) of water to be withdrawn;
  - (c) Number of days water is anticipated to be withdrawn; and
  - (d) Anticipated average daily withdrawal in million gallons per day (MGD).
- (3) All persons that withdraw water shall monitor drought and water supply conditions and shall participate in regional coordination for the management of water resources, evaluation of the cumulative effects of water withdrawals on regional water resources and the development of alternative water supply sources. Based on an assessment of drought severity and regional water supply conditions, the Department may contact water systems within the affected region to arrange a consultation meeting between water systems and relevant state and local agencies. The Department shall moderate these consultations and provide technical assistance.

*Authority G.S. 143-354(a)(8); 143-355(k); S.L. 2002-167.*

**15A NCAC 02E .0606 WATER SHORTAGE RESPONSE PLANNING REQUIREMENTS**

~~All classes of water users shall prepare a Water Shortage Response Plan according to the water shortage response planning provisions in Rules .0607 through .0611 for their appropriate class of water use. All classes of water users shall prepare a Water Shortage Response Plan in accordance with Rules .0607-.0611 of this Section.~~ The purpose of these Water Shortage Response Plans is to plan for an effective course of action to minimize harmful impacts of drought and water supply emergencies on public health and safety, environmental quality, and the economy. Water Shortage Response Plans shall take into account the specific characteristics of the water sources and the water uses for which the plan is prepared.

*Authority G.S. 143-354(a)(1); 143-355(l); S.L. 2002-167.*

**15A NCAC 02E .0607 PUBLICLY AND PRIVATELY OWNED WATER SYSTEM WATER SHORTAGE RESPONSE PLANNING REQUIREMENTS**

(a) ~~Publicly and privately owned~~ Units of local governments and large community water systems that are required to prepare a Local Water Supply Plan under G.S. 143-355(l) shall include the following information in their local Water Shortage Response Plans for review by the Division of Water Resources:

- (1) The designation of a staff position or organizational unit responsible for the implementation of their Water Shortage Response Plan;
- (2) Notification procedures that will be used to inform employees and water users about the implementation of the plan and required water conservation response measures;
- (3) Tiered levels of response actions to be taken to reduce water use based on the severity of water shortage conditions;
- (4) Specific measurements of available water supply, water demand and system conditions that will be used to determine the severity of water shortage conditions and to initiate water use reduction measures and the movement between various levels;
- (5) Procedures that will be used to regulate compliance with the provisions of the plan;
- (6) Procedures for affected parties to review and comment on the plan prior to final adoption;
- (7) Procedures to receive and review applications for variances from specific requirements of the plan and the criteria that will be considered in the determination to issue a variance;
- (8) An evaluation method to determine the actual water savings accomplished and the effectiveness of the Water Shortage Response Plan when implemented; and
- (9) Procedures for revising and updating Water Shortage Response Plans to improve plan effectiveness and adapt to new circumstances.

(b) ~~Publicly and privately owned~~ Units of local governments and large community water systems that are required to prepare a Local Water Supply Plan shall submit a copy of their Water Shortage Response Plan and any subsequent revisions of the plan to the Division of Water Resources for review every five years with the full Local Water Supply Plan, as required by G.S. 143-355(l).

(c) Publicly and privately owned water systems not required to prepare a Local Water Supply Plan shall:

- (1) Assess their vulnerability to drought and water shortage emergencies; and
- (2) Prepare a written plan for responding to water shortage emergencies and drought using the provisions of Paragraph (a) of this Rule.

(d) Publicly and privately owned water systems that depend on the water storage in a private or public impoundment that they do not own and operate under a contract for the withdrawal of water issued by the owner of an impoundment shall prepare a written plan for responding to water shortages that is consistent with the

provisions of the contract and shall comply with all Water Shortage Response Plan provisions established by the owner of the impoundment.

(e) Water Shortage Response Plans shall provide for water users who have made improvements to maximize water use efficiency in their daily operations and may face disproportionate hardships when making further water use reductions. Water Shortage Response Plans shall avoid restricting efficient water users in ways that would undermine incentives for water users to seek continued improvements in water use efficiency and shall honor locally approved certification programs that recognize efficient water users who meet industry standards for water use efficiency and water conservation.

(f) When the NCDMAC issues a drought advisory designating an area of the state as currently suffering from drought, publicly and privately owned water systems that depend on water from the designated area shall for the duration of the designation:

- (1) Implement the provisions of their Water Shortage Response Plan, as determined by the specific indicators established in the plan for initiating response measures;
- (2) Monitor and document water supply conditions;
- (3) Educate customers and employees on the need to conserve water and how to prepare for potential drought conditions;
- (4) Inspect water delivery system components and ensure that existing equipment is operating as efficiently as possible;
- (5) Stay informed on drought and water shortage emergency conditions and participate in regional coordination for the management of water resources; and
- (6) Evaluate the feasibility of reclaiming and recycling water to meet water needs.

*Authority G.S. 143-354(a)(1); 143-355(l); S.L. 2002-167.*

**15A NCAC 02E .0608 STATE AGENCY WATER SHORTAGE RESPONSE PLANNING REQUIREMENTS**

(a) State agencies that supply their own water shall prepare a written plan for responding to water shortages using the provisions of Rule ~~.0607(a)~~, .0607(a) of this Section.

(b) State agencies that are supplied water by a publicly or privately owned water system shall:

- (1) Review normal operating procedures and water use to identify options to reduce water use and maximize water use efficiency during water supply emergencies, including changes to normal operating procedures;
- (3) Provide information to their water purveyor(s) upon request to support development of the purveyor's Water Shortage Response Plan(s), including the agency's ability to reduce water use and limitations to reducing water use during droughts and water emergencies;
- (4) Develop procedures for informing employees of drought designations, water emergency declarations and response measures; and

- (5) Evaluate the feasibility of reclaiming and recycling water to meet water needs.

*Authority G.S. 143-354(a)(1); S.L. 2002-167.*

**15A NCAC 02E .0609 LOCAL GOVERNMENT WATER SHORTAGE RESPONSE PLANNING REQUIREMENTS**

(a) Units of local government that provide water to the public shall meet the requirements of Rule ~~.0607(a)~~, .0607(a) of this Section.

(b) Units of local government that do not provide water to the public shall:

- (1) Review normal water use for the types and number of facilities operated to identify options to reduce water use and maximize water use efficiency by local government operations during water shortage emergencies, including possible changes to normal operating procedures;
- (2) Cooperate with local water purveyor(s) on the development and implementation of the purveyor's Water Shortage Response Plan(s);
- (3) Establish a procedure for informing citizens of drought designations, recommended conservation activities and mandatory response measures to reduce water use during droughts and water shortage emergencies;
- (4) Provide a mechanism whereby residents can apply for and receive a variance from specific water use reduction requirements implemented by local governments;
- (5) Consider disproportionate hardships that water shortage response policies and ordinances may cause water users who have already made improvements to maximize water use efficiency in their daily operations; and
- (6) Evaluate the feasibility of reclaiming and recycling water to meet water needs.

*Authority G.S. 143-354(a)(1); S.L. 2002-167.*

**15A NCAC 02E .0610 BUSINESS AND INDUSTRIAL WATER SHORTAGE RESPONSE PLANNING REQUIREMENTS**

(a) Self-supplied business and industrial water users subject to the water withdrawal registration requirements of G.S. 143-215.22H shall prepare a written plan, for responding to water shortages that is consistent with industry water efficiency and drought response guidelines, that incorporate the relevant provisions of Rule ~~.0607(a)~~, .0607(a) of this Section.

(b) Business and industrial water users that depend on the water storage of a privately or publicly owned impoundment or withdraw water under a contract issued by the owner of an impoundment shall have a written plan for responding to water shortages that is consistent with the provisions of the contract and with any Water Shortage Response Plan provisions established by the owner of the impoundment.

(c) Business and industrial water users that are supplied water by a publicly or privately owned water system shall establish a

procedure for responding to water shortages that is complementary to their water purveyor's Water Shortage Response Plan.

*Authority G.S. 143-354(a)(1); S.L. 2002-167.*

**15A NCAC 02E .0611 AGRICULTURAL AND HORTICULTURAL WATER SHORTAGE RESPONSE PLANNING REQUIREMENTS**

(a) Agricultural and horticultural water users subject to the water withdrawal registration requirements of G.S. 143-215.22H shall develop a written plan for responding to water shortages to maximize water use efficiency and reduce water usage to the maximum extent possible. Any of the guidance documents on best management practices for the efficient use of water in agricultural and horticultural operations developed by the United States Department of Agriculture's Natural Resources Conservation Service, the North Carolina Department of Agriculture and Consumer Services (NCDA&CS), the ~~NC DENR~~ NCDA&CS Division of Soil and Water Conservation, North Carolina State University, the North Carolina Cooperative Extension Service or other industry trade organizations may be used to assist agricultural and horticultural water users identify the most appropriate water use efficiency measures that they may incorporate into the plan for their particular operational needs.

(b) When a region of the state is designated as suffering from Severe Drought, Extreme Drought or Exceptional Drought by a NCDMAC drought advisory, agricultural and horticultural water users shall reexamine and maintain water delivery systems to minimize water loss and maximize water use efficiency.

(c) Agricultural and horticultural water users that depend on the water storage of a privately or publicly owned impoundment or withdraw water under a contract issued by the owner of an impoundment shall have a written plan for responding to water shortages that is consistent with the provisions of the contract and with any Water Shortage Response Plan provisions established by the owner of the impoundment.

*Authority S.L. 2002-167.*

**15A NCAC 02E .0612 DEFAULT WATER SHORTAGE RESPONSE PLANNING MEASURES**

Publicly or privately owned water systems that are required to prepare a Local Water Supply Plan under G.S. 143-355(l) that do not have a written Water Shortage Response Plan, as outlined in Rule ~~.0607~~, .0607 of this Section, shall implement the default water use reduction measures of Rules .0613 and .0614 of this Section when their water system or water source is located in an area designated as suffering from Extreme or Exceptional Drought by the Council.

*Authority S.L. 2002-167.*

**15A NCAC 02E .0613 DEFAULT WATER USE REDUCTION MEASURES DURING NCDMAC EXTREME DROUGHT DESIGNATIONS**

When the NCDMAC designates a region of the state as suffering from Extreme Drought, the following water use reduction

standards shall apply to water users in the designated area, as indicated in Rule ~~.0612~~, .0612 of this Section:

- (1) Water users shall reduce water use by at least 10% below the amount used in the month prior to a NCDMAC Extreme Drought designation in the affected area.
- (2) All water users shall minimize non-essential use of water.
- (3) Outdoor irrigation is prohibited, except for:
  - (a) Watering lawns less than one inch of water per week, between the hours of 8:00 PM and 8:00 AM;
  - (b) Maintaining newly installed landscapes, lawns and erosion control projects that were initiated prior to the issuance of an Extreme Drought advisory, not to exceed the minimum rate necessary on the day of installation and for 60 days following installation, by means designed and operated to maximize water use efficiency and to prevent run-off and excessive watering;
  - (c) Using spray irrigation by wastewater effluent treatment systems from the NCDMAC Extreme Drought designated area(s) according to permit conditions under the provisions of North Carolina Administrative Code 15A NCAC ~~02H-0200~~ 02U .0100 and any successive rules and amendments; ~~amendments, as administered by the Department's Division of Water Quality;~~
  - (d) Maintaining athletic fields with less than one inch of water per week between the hours of 8:00 PM and 8:00 AM;
  - (e) Maintaining personal food gardens;
  - (f) Maintaining existing landscape plantings at the minimum rate necessary, between the hours of 8:00 PM and 8:00 AM, using a hand held container or hose with an automatic shutoff or using drip irrigation;
  - (g) Watering golf course tees, fairways and greens by means of an automated irrigation system between the hours of 8:00 PM and 8:00 AM with less than one inch of water per week;
  - (h) Syringing golf course tees and greens exhibiting visible signs of stress between the hours of 12:00 PM and 4:00 PM, at the minimum rate necessary; and
  - (i) Maintaining plant inventories, by means designed and operated to maximize water use efficiency, at retail garden centers, garden centers

- within mass merchant stores or other businesses with live plants as their stock in trade.
- (4) The use of water for washing or cleaning of mobile equipment including automobiles, trucks, boats and fleet vehicles is prohibited, except for:
- (a) Operating commercial car washes that utilize the industry's best management practices for the efficient use of water and those that recycle, reclaim or reuse a portion of their wash water in their daily operations and have reduced total water consumption by 10% below the amount used in the month prior to a NCDMAC Extreme Drought designation in the affected area;
  - (b) Washing with a hand-held hose with an automatic shutoff device using less than five gallons per vehicle;
  - (c) Cleaning new and used vehicles using less than five gallons per vehicle to prepare for display in a dealer's show room, upon receipt from the manufacturer or prior owner, and following a sale prior to delivery to the purchaser; and
  - (d) Cleaning of construction, emergency, transport or public transportation vehicles if necessary to preserve the proper functioning and safe operation of the vehicle.
- (5) The use of water for washing impervious and paved surfaces is prohibited, except for:
- (a) Prewashing in preparation for painting, recoating or sealing; and
  - (b) Applying at the minimum rate necessary for sanitation and public health purposes.
- (6) The use of water for ornamental fountains, artificial waterfalls, misting machines, reflecting pools, and ornamental ponds is prohibited, except for the minimum amount of make-up water necessary to maintain aquatic life.
- (7) The use of water for power washing of buildings and other structures is prohibited except when necessary to meet federal, state and local public health and safety requirements.
- (8) The use of water for flushing sewer lines is prohibited except when necessary to meet public health and safety standards.
- (9) The use of water from fire hydrants is prohibited, except for:
- (a) Fighting fire and fire protection purposes;
  - (b) Testing or training if it is necessary to protect public safety and has been approved by the applicable water purveyor; and
  - (c) Flushing of potable water lines to protect the public health.
- (10) The filling of family, public or private swimming pools, including hot tubs, spas and whirlpool tubs, is prohibited, except:
- (a) For health and rehabilitative purposes as prescribed by a medical doctor or administered by a medical facility; and
  - (b) For the minimal amount of make-up water necessary to maintain a pool's structural integrity and filtration system.
- (11) The serving of water in eating and drinking establishments shall be done on customer request only.
- (12) Water shall be applied at the minimum rate necessary to maintain effective dust and erosion control during the construction of roads and highways initiated prior to the declaration of an Extreme Drought by the NCMDAC.

*Authority S.L. 2002-167.*

**15A NCAC 02E .0614 DEFAULT WATER USE  
REDUCTION MEASURES DURING NCDMAC  
EXCEPTIONAL DROUGHT DESIGNATIONS**

When the NCDMAC designates a region of the state as suffering from Exceptional Drought, the following water use reduction standards shall apply to water users in the designated area, as indicated in Rule ~~.0612~~ .0612 of this Section:

- (1) Water users shall reduce water use by at least 20% below the amount used in the month prior to the most recent NCDMAC Extreme Drought designation in the affected area.
- (2) Non-essential water use shall be minimized by the maximum extent possible.
- (3) Outdoor irrigation is prohibited, except for:
  - (a) Using spray irrigation by wastewater effluent treatment systems in NCDMAC Exceptional Drought designated areas according to permit conditions under the provisions of North Carolina Administrative Code 15A NCAC ~~02H .0200~~ 02U .0100 and any successive rules and amendments; ~~amendments, as administered by the Department's Division of Water Quality;~~
  - (b) Watering personal food gardens by hand with a container or hand held hose with an automatic shutoff device or using drip irrigation between the hours of 8:00 PM and 8:00 AM;
  - (c) Maintaining existing landscape plantings at the minimum rate necessary, between the hours of 8:00 PM and 8:00 AM, using a hand held

- container or hose with an automatic shutoff or using drip irrigation;
  - (d) Watering golf course tees, fairways and greens, athletic fields and lawns between the hours of 8:00 PM and 8:00 AM with less than one half inch of water per week;
  - (e) Syringing of golf course tees and greens exhibiting visible signs of stress between the hours of 1:00 PM and 4:00 PM, at the minimum rate necessary;
  - (f) Maintaining newly installed landscapes, lawns and erosion control projects that were initiated prior to the issuance of an Extreme Drought advisory, not to exceed the minimum rate necessary on the day of installation and for 28 days following installation, by means designed and operated to maximize water use efficiency and to prevent run-off and excessive watering; and
  - (g) Maintaining plant inventories, by means designed and operated to maximize water use efficiency, at retail garden centers, garden centers within mass merchant stores, or other businesses with live plants as their stock in trade.
- (4) The use of water for washing or cleaning mobile equipment including automobiles, trucks, boats and fleet vehicles is prohibited, except for:
  - (a) Operating commercial car washes that utilize the industry's best management practices for the efficient use of water and those that recycle, reclaim or reuse a portion of their wash water and have reduced total water consumption by 20% below the amount used in the month prior to the most recent NCDMAC Extreme Drought designation in the affected area;
  - (b) Cleaning of new and used vehicles in preparation for display in a dealer's show room, using less than five gallons per vehicle; and
  - (c) Using the minimum amount of water necessary to clean construction, emergency, transport or public transportation vehicles, if required to preserve the proper functioning and safe operation of the vehicle as required by law.
- (5) The use of water for washing impervious and paved surfaces is prohibited except for using the minimum amount of water necessary for sanitation and public health purposes.
- (6) The use of water for power washing of buildings and other structures is prohibited.
- (7) The use of water for flushing sewer lines is prohibited except when necessary to meet public health and safety standards.
- (8) The use of water from fire hydrants is prohibited, except for:
  - (a) Fighting fire and fire protection purposes; and
  - (b) Flushing of drinking water lines to protect public health and safety.
- (9) The filling of family, public or private swimming pools, including hot tubs, spas and whirlpool tubs, is prohibited except for health and rehabilitative purposes as prescribed by a medical doctor or administered by a medical facility.
- (10) The use of water for ornamental fountains, artificial waterfalls, misting machines, reflecting pools, and ornamental ponds is prohibited, except for the minimum amount of make-up water necessary to maintain aquatic life.
- (11) The serving of water in eating and drinking establishments shall be done on customer request only.
- (12) Water shall be applied at the minimum rate necessary to maintain effective dust and erosion control during the construction of roads and highways initiated prior to the declaration of an Extreme Drought by the NCDMAC.

*Authority S.L. 2002-167.*

#### **15A NCAC 02E .0615 WATER REUSE DURING DROUGHTS AND WATER EMERGENCIES**

Water users may use reclaimed water under the provisions of North Carolina Administrative Code 15A NCAC ~~02H .0200 02U .0100~~ and any successive rules and amendments, ~~as administered by the Department's Division of Water Quality~~, during droughts and other water emergencies to reduce withdrawals of surface water and ground water and to extend available water supplies.

*Authority G.S. 143-215.1; 143-215.3(a)(1); 143-355.5; S.L. 2002-167.*

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### **TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS**

#### **CHAPTER 14 – BOARD OF COSMETIC ART EXAMINERS**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Cosmetic Art Examiners intends to amend the rules cited as 21 NCAC 14A .0104, .0404; 14H .0403; 14T .0201, .0502, .0616, and .0706.*

**Link to agency website pursuant to G.S. 150B-19.1(c):**  
<https://www.nccosmeticarts.com/uploads/Board/Rules4-21.pdf>

**Proposed Effective Date:** September 1, 2021

**Public Hearing:**

**Date:** May 18, 2021

**Time:** 9:00 a.m.

**Location:** Teleconference 1-866-365-4406 Access Code 7334117

**Reason for Proposed Action:** These rules are proposed for amendment to update the Board mailing address, refunds, and clarify school and shop regulations.

**Comments may be submitted to:** Stefanie Kuzdrall, 121 Edinburgh South Drive Suite 209, Cary, NC 27511; phone (919) 736-6123; email [skuzdrall@nccosmeticarts.com](mailto:skuzdrall@nccosmeticarts.com)

**Comment period ends:** July 2, 2021

**Procedure for Subjecting a Proposed Rule to Legislative Review:**

If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

**Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.**

- ☐ State funds affected
- ☐ Local funds affected
- ☐ Substantial economic impact ( $\geq \$1,000,000$ )
- ☐ Approved by OSBM
- ☒ No fiscal note required

**SUBCHAPTER 14A – DEPARTMENTAL RULES  
SECTION .0100 – ORGANIZATION RULES**

**21 NCAC 14A .0104 ADDRESS**

The address for the board is ~~4207-110 Front Street, Raleigh, North Carolina 27609~~. 121 Edinburgh South Drive Suite 209 Cary, North Carolina 27511.

*Authority G.S. 88-23.*

**SECTION .0400 - LICENSE WAIVER FOR ARMED FORCES**

**21 NCAC 14A .0404 FEES**

- (a) Fees paid by personal checks that are returned for any reason shall be treated in the same manner as though no fee had been tendered and the bank's returned check fee not to exceed twenty five dollars (\$25.00) shall be assessed to the account holder. All subsequent payments must be submitted via credit card, money order or certified check.
- (b) All moneys tendered in payment of fees shall be in the exact amount required for said fees. No part of a fee submitted to the Board per G.S. 88B shall be refundable.
- (c) Licenses, certifications, duplicates, inactivations, or reactivations will not be processed until all fees and assessed civil penalties are paid in full.

*Authority G.S. 25-3-506; 88B-2; 88B-4.*

**SUBCHAPTER 14H - SANITATION**

**SECTION .0400 - INFECTION CONTROL PROCEDURES AND PRACTICES**

**21 NCAC 14H .0403 DISINFECTION PROCEDURES**

(a) Disinfectant, as applicable in this Subchapter, is defined as a disinfectant that is EPA registered as effective against:

- (1) bacteria including *Staphylococcus aureus*, MRSA and *pseudomonas aeruginosa*;
- (2) viruses including HIV, Hepatitis B and C;
- (3) fungi including *Trichophyton mentagrophytes*; and
- (4) human coronavirus.

(b) Disinfectants that meet the requirements of Subparagraph (a)(1), (2), and (3) of this Rule may be used if they are listed on EPA list N as effective against pathogen SARS-CoV-2.

(c) Infection Control rules that apply to towels and cloths are as follows:

- (1) clean protective capes, drapes, linens, and towels shall be used for each patron;
- (2) after a protective cape has been in contact with a patron's neck it shall be placed in a clean, closed container until laundered with soap and hot water and dried in a heated dryer. Capes that cannot be laundered and dried in a heater dryer may be disinfected in accordance with the manufacturer directions; and
- (3) after a drape, linen, or towel has been in contact with a patron's skin it shall be placed in a clean, covered container until laundered with soap and hot water and dried in a heated dryer. A covered container may have an opening so soiled items may be dropped into the container.

(d) Any paper or nonwoven protective drape or covering shall be discarded after one use.

(e) There shall be a supply of clean protective drapes, linens and towels at all times. Wet towels used in services must be prepared fresh each day. Unused, prepared wet towels must be laundered daily.

(f) Clean drapes, capes, linens, towels and all other supplies shall be stored in a clean area.

(g) Bathroom facilities must be kept clean.

(h) All implements shall be cleaned and disinfected after each use in the following manner:

- (1) They shall be washed with warm water and a cleaning solution and scrubbed to remove debris and dried.
- (2) They shall be disinfected with either:
  - (A) disinfectant that is mixed and used according to the manufacturer's directions. They shall be rinsed with hot tap water and dried with a clean towel before their next use. They shall be stored in a clean, closed cabinet or container until they are needed; or
  - (B) by UV-C, ultraviolet germicidal irradiation used in accordance with the manufacturer's directions.
- (3) If the implement is shears, a razor, not immersible, or is not disinfected by UV-C irradiation, it shall be cleaned by wiping it with a clean cloth moistened or sprayed with a disinfectant used in accordance with the manufacturer's directions.

(i) All disinfected non-electrical implements shall be stored in a clean, closed cabinet or clean, closed container.

(j) All disinfected electrical implements shall be stored in a clean area separate from other clean implements.

(k) Disposable and porous implements and supplies must be discarded after use or upon completion of the service.

(l) Product that comes into contact with the patron must be discarded upon completion of the service.

(m) Containers with open faces may be covered or closed with plastic wrapping. Disinfected implements must not be stored with any implement or item that has not been disinfected.

(n) Lancets, disposable razors, and other sharp objects shall be disposed in puncture-resistant containers.

(o) All creams, lotions, wax, cosmetics, and other products dispensed to come in contact with patron's skin must be kept in clean, closed containers, and must conform in all respects to the requirements of the Federal Food, Drug, and Cosmetic Act as set forth in PL 75-717.52 accessible at [www.fda.gov](http://www.fda.gov). Any product apportioned for use and removed from original containers must be distributed in a sanitary manner that prevents contamination of product or container. Any product dispensed in portions into another container must be dispensed into a clean container and applied to patrons by means of a disinfected or disposable implement or other clean methods. Any product dispensed in portions not dispensed into another container must be used immediately and applied to patrons by means of a disinfected or disposable implement or other clean methods. No product dispensed in portions may be returned to the original container.

(p) As used in this Rule whirlpool or footspa means any basin using circulating water.

(q) After use by each patron each whirlpool or footspa must be cleaned and disinfected as follows:

- (1) all water must be drained and all debris removed from the basin;
- (2) the basin must be disinfected by filling the basin with water and circulating a surfactant or enzymatic soap with a disinfectant used

according to manufacturer's instructions through the unit for 10 minutes;

(3) the basin must be drained and rinsed with clean water; and

(4) the basin must be wiped dry with a clean towel.

(r) At the end of the day each whirlpool or footspa must be cleaned and disinfected as follows:

(1) the screen must be removed and all debris trapped behind the screen removed;

(2) the screen and the inlet must be washed with surfactant or enzymatic soap or detergent and rinsed with clean water;

(3) before replacing the screen it must be totally immersed in disinfectant in accordance to the manufacturer's instructions;

(4) the inlet and area behind the screen must be cleaned with a brush and surfactant soap and water to remove all visible debris and residue; and

(5) the spa system must be flushed with low sudsing surfactant or enzymatic soap and warm water for at least 10 minutes and then rinsed and drained.

(s) A record must be made of the date and time of each cleaning and disinfecting as required by this Rule including the date, time, reason, and name of the staff member who performed the cleaning. This record must be made for each whirlpool or footspa and must be kept and made available for at least 90 days upon request by either a patron or inspector.

(t) The water in a vaporizer machine must be emptied daily and the unit disinfected daily after emptying.

(u) The area where services are performed that come in contact with the patron's skin including treatment chairs, treatment tables, and beds shall be disinfected between patrons.

(v) A manufacturers label for all products, cleaners and disinfectant concentrate must be available at all times. If a concentrate bottle is emptied, it must remain available until a new bottle is available.

(w) When mixed disinfectant concentrate is placed in a secondary container such as a spray bottle, tub or jar, that container must be labeled to indicate what chemical is in the container. SDS sheets must be available for all disinfectants in use at all times.

(x) Disinfectants must be stored and disposed of in accordance with all local, State, and federal requirements.

(y) The cabinet and supplies of a towel warmer machine must be emptied daily and the unit dried daily after emptying.

*Authority G.S. 88B-2; 88B-4; 88B-14.*

## **SUBCHAPTER 14T – COSMETIC ART SCHOOLS**

### **SECTION .0200 - PHYSICAL REQUIREMENTS FOR COSMETIC ART SCHOOLS**

#### **21 NCAC 14T .0201 ALL COSMETIC ART SCHOOLS**

(a) Cosmetology schools must have the following physical departments:

- (1) Practice Department – a minimum of 200 square feet with a table or tables and or stands

- to accommodate at least 10 students and have at least 40 inches between each mannequin. Cosmetic art schools must provide an additional 5 square feet in the practice department for each student over the maximum of 10. This area shall have at least one mirror of a minimum of two square feet.
- (2) Clinic Department – the clinic floor for performance of all cosmetic art services. Within the clinic area each school shall have:
    - (A) 48 inches of space from the center to the center of each styling chair, esthetics table or manicuring table;
    - (B) 24 inches from the center of the chair forward;
    - (C) 48 inches from the backrest behind the chair to any other styling chair, esthetics table or manicuring table; and
    - (D) at least 30 inches of space from the back of each styling chair, esthetics table to the wall of the school.
  - (3) Dispensary – a room or area to organize and maintain supplies, equipment for disinfection of all implements and a sink with hot and cold running water. All cosmetic art schools must have the required equipment to carry out disinfection procedures per 21 NCAC 14H .0403 and .0404;
  - (4) Theory classroom – classroom with a minimum of 300 square feet to accommodate a maximum of 25 students. Cosmetic art schools must provide an additional 8 square feet in the theory classroom for each student over the maximum of 25;
  - (5) Office – administrative office for the secure and locked facilitation of student records and files. This office shall be outfitted with a minimum of one desk and one chair;
  - (6) Reception area – a reception area for clients to wait prior to receiving services;
  - (7) Break room for student use;
  - (8) Restrooms for student and public use;
  - (9) Locker or dressing room – a locker or room for students to secure and lock personal belongings throughout the day; and
  - (10) All stations as defined in Rule .0302 of this Subchapter must be numbered numerically.
- (b) Manicuring, esthetics and natural hair care schools must have the following physical departments:
- (1) Clinic Department – the clinic floor for performance of all cosmetic art services. Within the clinic area each school shall have:
    - (A) 48 inches of space from the center to the center of each styling chair, esthetics table or manicuring table;
    - (B) 24 inches from the center of the chair forward;
    - (C) 48 inches from the backrest behind the chair to any other styling chair, esthetics table or manicuring table; and
    - (D) at least 30 inches of space from the back of each styling chair or esthetics table to the wall of the school.
  - (2) Dispensary – a room or area to organize and maintain supplies, equipment for disinfection of all implements and a sink with hot and cold running water. All cosmetic art schools shall have the required equipment to carry out disinfection procedures per 21 NCAC 14H .0403 and .0404;
  - (3) Theory classroom – a room or area with equipment for theory training appropriate to both practical and theory learning including desks and chairs.
  - (4) Office – administrative office for the secure and locked facilitation of student records and files. This office shall be outfitted with a minimum of one desk and one chair;
  - (5) Reception area – a reception area for clients to wait prior to receiving services;
  - (6) Break room for student use;
  - (7) Restrooms for student and public use;
  - (8) Locker or dressing room – a locker or room for students to secure and lock personal belongings throughout the day; and
  - (9) All stations as defined in Rule .0304 of this Subchapter must be numbered numerically.
- (c) Each cosmetic art school must display a sign in the reception area. The sign cannot be smaller than 12 inches by 18 inches, with lettering at least one and one half inches in size and must read as follows: "Cosmetic Art School Work Done Exclusively by Students."
- (d) Each of the requirements listed within this Rule must be located within the same building with the exception of the theory classroom which may be located in an adjacent building or another building within 500 feet of the main cosmetic art building and a proctored examination center, which may be located on the school campus. Theory classrooms located in an adjacent building or another building within 500 feet of the main cosmetic art building shall not be used for student practice.
- (e) All Cosmetic Art schools must post hours of operation per cosmetic art discipline and submit this information to the Board. Any changes to the hours of operation must be posted and submitted to the Board. A school shall be considered open by the Board when cosmetic art instruction, services or performances are provided.
- (f) Cosmetic art schools may not offer student hours or performances unless they are in compliance with Paragraph (a) of this Rule.
- (g) All cosmetic art schools must adhere to any federal, state and local government regulation or ordinance regarding fire safety codes, plumbing and electrical work.
- (h) All cosmetic art schools must maintain a ventilation system with temperature control. During school operating hours the



temperature must be maintained between 60 and 85 degrees Fahrenheit.

(i) All equipment in cosmetic art schools shall be in working order; kept in repair; and installed in such a manner as to facilitate usage.

(j) All cosmetic art school buildings shall be maintained. Maintenance includes the safe and working condition of the physical building, furniture, equipment and supplies.

(k) All cosmetic art schools must maintain a bulletin board in sight of the clinic floor. The bulletin board shall be used to display at all times the Board Infection Control rules in 21 NCAC 14H .0200, .0300, .0400, and .0500 and the sanitation grade card issued to the school.

(l) All cosmetic art schools must post together the school letter of approval, the school license and all cosmetic art licenses issued to the teachers on staff.

(m) Each room in a cosmetic art school must be labeled according to its assigned purpose.

(n) Each theory classroom shall be equipped with desks or chairs suitable for classroom work and one chair suitable for demonstrating cosmetic art practices.

(o) When a school and a shop are under the same ownership:

- (1) separate operation of the shop and school shall be maintained;
- (2) if the school and shop are located in the same building, they must be separated by a solid wall of at least seven feet in height; separate entrances and visitor reception areas shall be maintained; and
- (3) the school and shop shall have separate public information releases, advertisements, names and advertising signs.

(p) A cosmetic art school must maintain space and equipment appropriate to both practical and theory learning including desks and chairs, and station requirements so that each student in attendance has a location within which to complete assigned tasks. Each station or desk space shall be designated for only one student at a time.

*Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17.*

## **SECTION .0500 - RECORD KEEPING**

### **21 NCAC 14T .0502 PERMANENT RECORDS, FORMS AND DOCUMENTATION**

(a) Cosmetic art schools must maintain locked storage for the permanent files of all enrolled students and students who have withdrawn or graduated together in one room within the approved square footage of the cosmetic art school. Withdrawal and graduation forms reviewed by the Board or an agent of the Board may be removed from this room. The permanent file shall include a copy of:

- (1) Board Enrollment Form;
- (2) Documentation of student receipt of evaluation plans, school policies, school and student contract; the Board Infection Control rules as set forth in 21 NCAC 14H .0200, .0300, .0400, and .0500 and 21 NCAC 14I .0401, and 21 NCAC 14T .0703.

- (3) All Board Withdrawal Forms;
- (4) Social security card for any individual who has a social security number or tax ID card or student visa information;
- (5) Government issued photo ID and proof of date of birth;
- (6) Grades for all examinations and performance evaluation plans; performance evaluation plans should be dated, graded, and signed by a teacher; along with documentation for pass performances;
- (7) Documentation for any leave of absence over 30 ~~days~~; days. Documentation should include an anticipated return date and updated notes every 30 days if the return date exceeds the anticipated return date.
- (8) Transfer of hours form documenting hours earned in other schools and hours accepted by current school; and
- (9) Graduation Form.

(b) The school shall keep onsite, records of hours earned daily including field trip hours and documentation of field trip hours updated with a running grand total, as well as a total of the following through the prior week:

- (1) A daily record of the actual number of hours of attendance;
- (2) A daily record of the actual number of hours and educational achievements completed via online; and
- (3) An updated Performance evaluation plan ~~Record~~ showing the actual date of the performance and the teacher who approved the performance, performance evaluation plan;
- (4) A record of hours and subtotaed weekly.

(c) When a student enrolled in a cosmetic art school withdraws from the school, the cosmetic art school shall report the withdrawal to the Board.

(d) If a student withdraws from a cosmetic art discipline within the first five days, the school need not submit the enrollment to the Board. The unsubmitted enrollment must be maintained in the student file until reviewed by the Board or an agent of the Board after which, it may be removed.

(e) The graduation form documentation must be signed by on site school staff or on site school administrators and must have the seal of the school affixed. The original graduation form documentation must be prepared on the Board form and shall indicate that the applicable requirement of this Chapter have been met. The cosmetic art school shall mail the graduation form to the Board at the Board's address set forth in Rule 14A .0104 or submit the graduation form via the Board's school documents portal at [www.ncccosmeticarts.com](http://www.ncccosmeticarts.com) within 30 days of the student's graduation date.

(f) All forms submitted to the Board must be sealed originals or a digital scan of sealed originals and a copy shall be maintained in the school permanent file storage. Except for student signatures, all forms submitted to the Board must be completed by on site school staff or on site school administrators. Board forms shall be used for the sole purpose of documenting to the

Board student records and shall not be used to notify students of enrollment, transfer of hours, withdrawal, or graduation.

(g) Changes or corrections made by the school to any Board form must be submitted to the Board with supporting documentation.

(h) All cosmetic art schools must maintain on file at the school an original daily record of enrolled students' hours and performances. This record must be kept in a secured location under lock and key but made available for review by the Board or its agent at any time.

(i) All records kept by a cosmetic art school on a student who has withdrawn or graduated must be kept in the school's locked files for future reference until the date the student is accepted for the Board examination or five years after the date the student first enrolled in the school, whichever occurs earlier. Forms reviewed by the Board or an agent of the Board may be removed from this room.

(j) The record of all hours and ~~performances~~ performance evaluation plans must be documented in writing. Credit issued to students that cannot be verified shall be eliminated from the student record by an agent of the Board.

(k) Access to student records must be limited to agents of the Board, teachers, and administrators of the school. Records shall not be altered offsite. Records that are altered must be altered onsite and must have documentation supporting the change attached. The format, school name, and school code on Board forms cannot be altered.

(l) All individuals in a cosmetic art school receiving cosmetic art education, earning hours, or performing or practicing cosmetic art services must be enrolled in the school.

(m) Only teachers reported to the Board as employees of a cosmetic art school may grade practical student examinations and evaluate pass or fail of student performances. Only on site teachers, on site school administrators, or on site school staff shall record student hours and performances, grade examinations, and determine completion and record credit of live model and mannequin performances.

(n) Minimum scores required for examinations and the successful completion of live model and mannequin performances as determined through the school's evaluation plan that is approved by the Board at the time of application shall be disclosed to students at the time of enrollment. Teachers must use the evaluation plan approved by the Board to assess student competency. Passing grades and performances shall not be credited to students who fail to meet the requirements of the evaluation plan.

(o) Cosmetic art schools must provide to each student a copy of school policies and 21 NCAC 14I .0401. The school shall retain for the permanent file a copy of the student's acknowledgement of receipt of these documents.

(p) The names of students with unsatisfied academic obligations shall not be submitted to the Board as graduates but may be submitted as withdrawn.

(q) Cosmetic art schools shall not report to the Board the unsatisfied financial obligations of any cosmetic art student. Cosmetic art schools shall not prevent the graduation of students who have met the Board minimum requirements and passed all school academic requirements.

(r) Records of hours must be rounded to no more than the nearest quarter hour. Cosmetic art schools shall not give or deduct hours or performances as rewards or penalties.

(s) An applicant shall receive credit for instruction taken in another state if the applicant's record is certified by the state agency or department that issues licenses to practice in the cosmetic arts. If this agency or department does not maintain any student records or if the state does not give license to practice in the cosmetic arts, then the records may be certified by any state department or state agency that does maintain such records and is willing to certify their accuracy. If no state department or board will certify the accuracy of the student's records, then the Board shall review the student's records for validity on a case-by-case basis using the documentation provided by the student.

(t) Hours transferred between open North Carolina schools must be obtained by the submission of the Board transfer form mailed directly from the school in which the hours are earned with the school seal affixed, with grades for examinations and performances to the new school in which a student enrolls. Such original documentation shall be submitted to the Board with enrollment. Transfer forms shall include the following:

- (1) Student name and social security number;
- (2) School code;
- (3) Course type and total number of live model and mannequin service performances;
- (4) Enrollment date and last date of attendance;
- (5) Number of hours and minutes completed;
- (6) School owner name and signature; and
- (7) School seal.

(u) A student must pass an entrance examination including mannequin evaluations given by the school to which the student is transferring for the hours to be transferred from one cosmetic art school to another.

*Authority G.S. 88B-4; 88B-16.*

## **SECTION .0600 - CURRICULA**

### **21 NCAC 14T .0616      ADDITIONAL HOURS**

(a) Notwithstanding any other provision of the rules in this Subchapter, pursuant to G.S. 88B-18(d) a cosmetologist, apprentice, esthetician, manicurist, natural hair care specialist, or teacher candidate who has failed either section of the examination three times, shall complete the following amounts of study at an approved cosmetic art school before the Board may accept an application:

- (1) Cosmetologist ~~200~~ 100 hours;
- (2) Apprentice ~~150~~ 75 hours;
- (3) Esthetician ~~80~~ 40 hours;
- (4) Manicurist ~~40~~ 20 hours;
- (5) Natural Hair Care Specialist ~~40~~ 20 hours; and
- (6) Teacher:
  - (A) cosmetology 100 hours;
  - (B) esthetician 80 hours; and
  - (C) manicurist 40 hours.

(b) Schools shall evaluate students returning to complete additional hours in accordance with Paragraph (a) of this Rule and shall provide remedial assistance or training in the areas of deficiency.

(c) Additional hours may be completed through online study or instruction.

*Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17; 88B-18.*

**SECTION .0700 - SCHOOL LICENSURE, OPERATIONS,  
CLOSING AND RELOCATING SCHOOLS**

**21 NCAC 14T .0706 SCHOOL APPROVAL CHANGES  
AND SCHOOL CLOSING**

(a) If the ~~square footage, instructional layout~~ or location of a cosmetic art school changes, or if there is a transfer of majority ownership of a cosmetic art school, whether by sale, lease or otherwise a new approval application is required.

(b) License and letters of approval issued to cosmetic art schools are not transferrable, and are valid only for the location, square footage and enrollment capacity for which issued, and to the owner to whom issued. The letter of approval shall contain the school name, school owner name, school location, date of

approval, the signature of the Board members, the amount of approved square footage and the maximum number of enrollments for which the school has been approved.

(c) Schools intending to close must notify the Board not less than 30 days in advance.

(d) Schools must make provisions for the long term storage of school documents, and facilitate the retrieval of any school documents upon the request of a student or the Board. Schools shall notify the Board of the contact information for retrieval of any school information.

(e) Schools must facilitate and cooperate in the final inspection and processing of student hours.

(f) If the square footage or instructional layout of a cosmetic art school changes the school shall notify the Board of the change and submit a diagram of the new instructional layout, an inspection shall be scheduled to verify the change.

*Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17.*

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**APPROVED RULES**

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*This Section includes a listing of rules approved by the Rules Review Commission followed by the full text of those rules. The rules that have been approved by the RRC in a form different from that originally noticed in the Register or when no notice was required to be published in the Register are identified by an \* in the listing of approved rules. Statutory Reference: G.S. 150B-21.17.*

Rules approved by the Rules Review Commission at its meeting on March 18, 2021 Meeting.

**REGISTER CITATION TO THE  
NOTICE OF TEXT****ENVIRONMENTAL QUALITY, DEPARTMENT OF**

<u>Residential Conservation Service Program</u>	04 NCAC 12C .0108	35:08 NCR
<u>Delegation of Authority for Rulemaking Hearings and State...</u>	04 NCAC 12D .0101	35:08 NCR
<u>Submission and Content of Petition for Rulemaking</u>	04 NCAC 12D .0102	35:08 NCR
<u>Contents of Petition</u>	04 NCAC 12D .0103	35:08 NCR
<u>Issuance of Declaratory Rulings</u>	04 NCAC 12D .0116	35:08 NCR
<u>Disposition of Requests for Declaratory Ruling</u>	04 NCAC 12D .0117*	35:08 NCR
<u>Disposition of Petitions for Rulemaking</u>	04 NCAC 12D .0132	35:08 NCR
<u>Submission of Request for Declaratory Ruling</u>	04 NCAC 12D .0133*	35:08 NCR

**MEDICAL CARE COMMISSION**

<u>Nurse Aide I Training and Competency Evaluation</u>	10A NCAC 13O .0301	35:06 NCR
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**PUBLIC HEALTH, COMMISSION FOR**

<u>Reportable Diseases and Conditions</u>	10A NCAC 41A .0101	35:11 NCR
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**ALARM SYSTEMS LICENSING BOARD**

<u>Experience Requirements for a License</u>	14B NCAC 17 .0202*	35:05 NCR
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**PUBLIC SAFETY, DEPARTMENT OF**

<u>Scope</u>	14B NCAC 19A .0101	34:13 NCR
<u>Definitions</u>	14B NCAC 19A .0102*	34:13 NCR
<u>System Administrator Designation</u>	14B NCAC 19A .0103*	34:13 NCR
<u>Covered Entity System Access; Local Administrators</u>	14B NCAC 19A .0104*	34:13 NCR
<u>System Compatibility for Kits</u>	14B NCAC 19B .0101	34:13 NCR
<u>Medical Service Providers</u>	14B NCAC 19B .0102*	34:13 NCR
<u>Law Enforcement Agencies</u>	14B NCAC 19B .0103*	34:13 NCR
<u>Law Enforcement Support Services</u>	14B NCAC 19B .0104*	34:13 NCR
<u>Forensic Laboratories</u>	14B NCAC 19B .0105*	34:13 NCR
<u>Previously Untested Kits</u>	14B NCAC 19B .0106*	34:13 NCR
<u>Compliance and Sanctions</u>	14B NCAC 19C .0101*	34:13 NCR

**PUBLIC HEALTH, COMMISSION FOR**

<u>Disinfection of Water Systems</u>	15A NCAC 18A .1724	35:11 NCR
<u>Definitions</u>	15A NCAC 18A .3101	35:11 NCR
<u>Lead Poisoning Hazard and Clearance Standard for Soil</u>	15A NCAC 18A .3105	35:11 NCR
<u>Maintenance Standard</u>	15A NCAC 18A .3107	35:11 NCR
<u>Sample Collection</u>	15A NCAC 18A .3802*	35:11 NCR

**BARBER EXAMINERS, BOARD OF**

<u>Barber School Curricula</u>	21 NCAC 06F .0120*	35:12 NCR
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<u>Student Hours</u>	21 NCAC 06F .0124*	35:12 NCR
<b>LANDSCAPE CONTRACTORS' LICENSING BOARD</b>		
<u>Emergency Extensions of Continuing Education Requirements...</u>	21 NCAC 28B .0406	35:07 NCR
<b>MASSAGE AND BODYWORK THERAPY, BOARD OF</b>		
<u>Waiver of Requirements During Disaster or Emergency</u>	21 NCAC 30 .0636*	35:12 NCR
<u>Waiver of Requirements During Disaster or Emergency</u>	21 NCAC 30 .0704*	35:12 NCR
<b>MEDICAL BOARD</b>		
<u>COVID-19 Drug Preservation Rule</u>	21 NCAC 32B .1708*	35:10 NCR
<u>COVID-19 Drug Preservation Rule</u>	21 NCAC 32M .0119	35:10 NCR
<b>FUNERAL SERVICE, BOARD OF</b>		
<u>License Renewal Form</u>	21 NCAC 34B .0309	35:11 NCR
<b>OPTICIANS, STATE BOARD OF</b>		
<u>Waiver</u>	21 NCAC 40 .0113	35:11 NCR
<b>VETERINARY MEDICAL BOARD</b>		
<u>Petition for Inactive Status</u>	21 NCAC 66 .0309*	35:09 NCR
<b>ADMINISTRATIVE HEARINGS, OFFICE OF</b>		
<u>General</u>	26 NCAC 03 .0502	35:11 NCR

**TITLE 04 - DEPARTMENT OF ENVIRONMENTAL QUALITY**

physical address of the State Energy Office is 217 W. Jones St., Raleigh, NC 27603.

**04 NCAC 12C .0108 RESIDENTIAL CONSERVATION SERVICE PROGRAM**

*History Note: Authority G.S. 143B-429; 143B-430; 143B-431; 143B-449; 150B-12; Title II, Part I (NECPA); P.L. 95-619; 92 Stat. 3206; Title V, Subtitle B (ESA), P.L. 96-294, 94 Stat. 611; Eff. October 1, 1980; Emergency Amendment [(e)] Eff. November 3, 1980 for a period of 120 days to expire March 3, 1981; Emergency Amendment [(e)] Expired Eff. March 3, 1981; Amended Eff. March 1, 1983; August 6, 1981; Repealed Eff. April 1, 2021.*

*History Note: Authority G.S. 143-58.4(c); 143B-344.44(b)(3); 150B-20; Emergency Rule Eff. March 6, 1978, for a period of 120 days to expire on July 3, 1978; Eff. July 3, 1978; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017; Amended Eff. April 1, 2021.*

**04 NCAC 12D .0101 DELEGATION OF AUTHORITY FOR RULEMAKING HEARINGS AND STATE ENERGY OFFICE CONTACT INFORMATION**

(a) The Secretary of the Department of Environmental Quality designates the State Energy Director or his or her designee as the hearing officer to conduct rulemaking hearings in matters pertaining to rules and regulations of the State Energy Office.  
(b) All notices required by the rules in this Subchapter to be submitted to the State Energy Office or the Financial Services Division shall be made to: The North Carolina State Energy Office, 1613 Mail Service Center, Raleigh, NC 27699-1613. The

**04 NCAC 12D .0102 SUBMISSION AND CONTENTS OF PETITION FOR RULEMAKING**

(a) Any person wishing to submit a petition requesting the adoption, amendment, or repeal of a rule by the State Energy Office, within the Department of Environmental Quality shall petition the State Energy Director by submitting the information required in Paragraph (b) of this Rule. The petitioner shall send the petition in accordance with Rule .0101 of this Section.  
(b) The petition shall contain the following information:

- (1) the text of the proposed rule(s) for adoption or amendment;
- (2) a statement of the reasons for the adoption of a proposed rule(s), amendment or repeal of existing rule(s);
- (3) a statement of the effect on existing rules or orders;

- (4) any documents and data supporting the proposed rule(s);
- (5) the name(s) and addresses(es) of petitioner(s); and
- (6) a request to present the petition to the hearing officers in accordance with Rule .0101 of this Section, if desired.

(c) The petitioner may include the following information within the request:

- (1) the statutory authority for the agency to promulgate the rule(s);
- (2) a statement of the effect of the proposed rule(s) on existing practices in the area involved, including cost factors for persons affected by the proposed rule(s);
- (3) a statement explaining the computation of the costs factors; and
- (4) a description, including the names and addresses, if known, of those most likely to be affected by the proposed rule(s).

(d) The State Energy Director shall return petitions that do not contain the information required by Paragraph (b) of this Rule to the petitioner.

*History Note: Authority G.S. 143-58.4(c); 143B-344.44(b)(3); 150B-20; Emergency Regulation Eff. March 6, 1978, for a period of 120 days to expire on July 3, 1978; Eff. July 3, 1978; Readopted Eff. April 1, 2021.*

#### **04 NCAC 12D .0103 CONTENTS OF PETITION**

*History Note: Authority G.S. 143B-429; 143B-430; 143B-431; 143B-449; Emergency Regulation Eff. March 6, 1978, for a period of 120 days to expire on July 3, 1978; Eff. July 3, 1978; Repealed Eff. April 1, 2021.*

#### **04 NCAC 12D .0116 ISSUANCE OF DECLARATORY RULINGS**

At the request of any person aggrieved, as defined in G.S. 150B-2(6), the Secretary of the Department of Environmental Quality may issue a declaratory ruling as provided in G.S. 150B-4 and the rules of this Section.

*History Note: Authority G.S. 143-58.4(c); 143B-344.44(b)(3); Emergency Regulation Eff. March 6, 1978, for a period of 120 days to expire on July 3, 1978; Eff. July 3, 1978; Readopted Eff. April 1, 2021.*

#### **04 NCAC 12D .0117 DISPOSITION OF REQUEST FOR DECLARATORY RULING**

(a) The State Energy Director shall make a determination on the completeness of the request for a declaratory ruling based on Rule .0133 of this Section.

(b) Before deciding the merits of the request, and upon consideration of the complete request for a declaratory ruling, the Director shall determine if additional information or presentation(s) are needed and if so:

- (1) request additional written submissions from the petitioner(s);
- (2) request a written response from the State Energy Office staff or any other person; and
- (3) hear oral arguments from the petitioner(s), interveners, and the State Energy Office staff or their legal counsel.

(c) The Director shall decline to issue a declaratory ruling if any of the following are found:

- (1) that there has been a similar determination in a previous contested case or declaratory ruling;
- (2) that the matter is the subject of a pending contested case, hearing, or litigation in any North Carolina or federal court;
- (3) that no genuine controversy exists as to the application of a statute, rule, or order to the specific factual situation presented; or
- (4) that the factual situation presented as the subject of the declaratory ruling was specifically considered upon the adoption of the rule being questioned, as evidenced by the rulemaking record.

(d) The Department shall keep a record of each request for declaratory ruling, which shall include the following items:

- (1) the request for a ruling;
- (2) any written submission by a party;
- (3) the facts on which the ruling was based;
- (4) any transcripts of oral proceedings, if available, and recordings of oral arguments;
- (5) any other information such as documents, photographs, recordings, maps, plats, articles, and studies considered by the Director in the making of the decision; and
- (6) the declaratory ruling, or the decision to decline to issue a declaratory ruling, together with the reasons therefore.

(e) The Department shall notify the petitioner in writing of the Director's decision on the request for declaratory ruling, including the basis for the decision.

(f) For purposes of this Section, a declaratory ruling shall be deemed to be in effect until:

- (1) the statute or rule interpreted by the declaratory ruling is repealed or the relevant provisions of the statute or rule are amended or altered;
- (2) any court of the Appellate Division of the General Courts of Justice construes the statute or rule that is the subject of a declaratory ruling to be irreconcilable with the declaratory ruling; or
- (3) any court sets aside the declaratory ruling in litigation between the Department and the party requesting the ruling.

(g) Any Division of the Department may be a party to any request for declaratory ruling upon written request. The request shall be

made to the Director within five days of receipt of notice of the request for a declaratory ruling.

(h) Upon written request, the petitioner(s), intervener(s), and the Division each shall be allowed to present oral arguments to the Director. No party shall offer testimony or conduct cross-examination before the Director.

(i) The Director shall issue a decision on whether to grant or deny the request for declaratory ruling within 30 days of the receipt of the petition. If granted, the Director shall have 45 days from the date of granting the request to issue a ruling on the merits of the request.

(k) A declaratory ruling, or failure to issue a declaratory ruling, is subject to judicial review as provided in G.S. 150B-4(a)(1).

*History Note: Authority G.S. 143-58.4(c); 143B-344.44(b)(3); 150B-4;*

*Emergency Regulation Eff. March 6, 1978, for a period of 120 days to expire on July 3, 1978;*

*Eff. July 3, 1978;*

*Readopted Eff. April 1, 2021.*

#### **04 NCAC 12D .0132 DISPOSITION OF PETITIONS FOR RULEMAKING**

(a) If the State Energy Director determines the petition to be complete in accordance with Rule .0102 of this Section, the Director shall notice a hearing at least 15 days before the hearing's scheduled date.

(b) The petitioner shall be afforded the opportunity to present the petition to the Director if so requested in accordance with Rule .0102(b)(6) of this Section. The State Energy Office may also make a presentation to the Director.

(c) The Director shall allow one interested person to present the viewpoint of those who oppose initiating rulemaking. The Director shall determine whether additional interested persons are permitted to make oral presentations during the hearing. Interested persons shall request the opportunity to make a presentation to the Director through the State Energy Office, in accordance with Rule .0101 of this Section, at least five days prior to the scheduled hearing. The request shall:

- (1) state the interest of the person in the petition for rulemaking;
- (2) state the person's position on the petition; and
- (3) be accompanied by any supporting materials.

*History Note: Authority G.S. 143-58.4(c); 143B-344.44(b)(3); 150B-20;*

*Eff. April 1, 2021.*

#### **04 NCAC 12D .0133 SUBMISSION OF REQUEST FOR DECLARATORY RULING**

(a) All requests for a declaratory ruling shall be filed in accordance with Rule .0101 of this Section.

(b) All requests for declaratory rulings shall include the following:

- (1) the name and address of petitioner(s);
- (2) the statute, rule, or order upon which a ruling is desired;
- (3) a statement as to whether the request is for a ruling on the validity of a rule or on the

applicability of a statute, rule, or order to a given factual situation;

(4) arguments or data demonstrating that the petitioner is aggrieved by the statute, rule, or order, or by its potential application to the petitioner;

(5) a statement of the consequences of failure to issue a declaratory ruling in favor of the petitioner;

(6) a statement of the desired outcome; and

(7) a statement of whether an oral argument is desired, and if so, the reason(s) for requesting such an oral argument.

(c) A petitioner may request a declaratory ruling on the applicability of a statute, rule, or order to the petitioner, or on the validity of a Department rule. The petitioner may request both types of declaratory ruling in a single request. A request on the applicability of a statute, rule, or order shall include a statement of the facts and documentation supporting such facts, in addition to the requirements of Paragraph (b) of this Rule. A request to determine the validity of a Department rule shall state the petitioner's reason(s) for the request and a written argument, in addition to the requirements of Paragraph (b) of this Rule.

(d) Any other person may petition to become a party by filing a motion to intervene in the manner provided in G.S. 1A-1, Rule 24. The State Energy Director shall determine whether to grant the motion to intervene in accordance with Rule 24 of the North Carolina Rules of Civil Procedure.

*History Note: Authority G.S. 143-58.4(c); 143B-344.44(b)(3);*

*Eff. April 1, 2021.*

### **TITLE 10A - DEPARTMENT OF HEALTH AND HUMAN SERVICES**

#### **10A NCAC 130 .0301 NURSE AIDE I TRAINING AND COMPETENCY EVALUATION**

(a) To be eligible to be listed on the NC Nurse Aide I Registry by the Health Care Personnel Education and Credentialing Section, a person shall:

- (1) pass a Nurse Aide I training program approved by the Department in accordance with 42 CFR 483.151 through 42 CFR 483.152 and the State of North Carolina's Nurse Aide I competency exam; or
- (2) apply to the Department for approval to be listed on the NC Nurse Aide I Registry by reciprocity of a nurse aide certification or registration from another State to North Carolina.

(b) In applying for reciprocity of a nurse aide certification or registration to be listed on the NC Nurse Aide I Registry pursuant to Subparagraph (a)(2) of this Rule, the applicant shall:

- (1) submit a completed application to the Department that includes the following:
  - (A) first, middle, and last name;
  - (B) the applicant's prior name(s), if any;

- (C) mother's maiden name;
- (D) gender;
- (E) social security number;
- (F) date of birth;
- (G) mailing address;
- (H) email address;
- (I) home telephone number;
- (J) any other State registries of nurse aides upon which the applicant is listed;
- (K) certification or registration numbers for any State nurse aide registries identified in Part (b)(1)(J) of this Rule;
- (L) original issue dates for any certifications or registrations identified in Part (b)(1)(K) of this Rule;
- (M) expiration dates for any certifications or registrations identified in Part (b)(1)(K) of this Rule; and
- (N) employment history;

- (2) provide documentation verifying that his or her registry listing is active and in good standing in the State(s) of reciprocity, dated no older than 30 calendar days prior to the date the application is received by the Department; and
- (3) provide a copy of his or her Social Security card and an unexpired government-issued identification containing a photograph and signature.

(c) For the applicant to be approved for reciprocity of a nurse aide certification or registration and be listed on the NC Nurse Aide I Registry, the Department shall verify the following:

- (1) the applicant has completed an application in accordance with Subparagraph (b)(1) of this Rule;
- (2) the applicant is listed on another State's registry of nurse aides as active and in good standing;
- (3) the applicant has no pending or substantiated findings of abuse, neglect, exploitation, or misappropriation of resident or patient property recorded on other State registries of nurse aides;
- (4) if the applicant has been employed as a nurse aide for monetary compensation consisting of at least a total of eight hours of time worked performing nursing or nursing-related tasks delegated and supervised by a Registered Nurse, then the applicant shall provide the employer name, employer address, and dates of employment for the previous 24 consecutive months;
- (5) the name listed on the Social Security card and government-issued identification containing a photograph and signature submitted with the application matches the name listed on another State's registry of nurse aides or that the applicant has submitted additional documentation verifying any name changes; and

- (6) the applicant completed a State-approved nurse aide training and competency evaluation program that meets the requirements of 42 CFR 483.152 or a State-approved competency evaluation program that meets the requirements of 42 CFR 483.154.

(d) The Department shall within 10 business days of receipt of an application for reciprocity of a nurse aide certification or registration or receipt of additional information from the applicant:

- (1) inform the applicant by letter whether he or she has been approved; or
- (2) request additional information from the applicant.

The applicant shall be added to the NC Nurse Aide I Registry within three business days of Department approval.

(e) This Rule incorporates 42 CFR Part 483 Subpart D by reference, including all subsequent amendments and editions. Copies of the Code of Federal Regulations may be accessed electronically free of charge from [www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR](http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR).

(f) The State of North Carolina's Nurse Aide I competency exam shall include each course requirement specified in the Department-approved Nurse Aide I training program as provided for in 42 CFR 483.152.

(g) The State of North Carolina's Nurse Aide I competency exam shall be administered and evaluated only by the Department or its contracted testing agent as provided for in 42 CFR 483.154.

(h) The Department shall include a record of completion of the State of North Carolina's Nurse Aide I competency exam in the NC Nurse Aide I Registry within 30 days of passing the written or oral exam and the skills demonstration as provided for in 42 CFR 483.154.

(i) If the State of North Carolina's Nurse Aide I competency exam candidate does not pass the written or oral exam and the skills demonstration as provided for in 42 CFR 483.154, the candidate shall be advised by the Department of the areas that the individual did not pass.

(j) Every North Carolina's Nurse Aide I competency exam candidate shall have the opportunity to take the exam at maximum three times before being required to retake and pass a Nurse Aide I training program.

(k) U.S. military personnel who have completed medical corpsman training and retired or non-practicing nurses shall not be required to take the Department-approved Nurse Aide I training program to be listed or relisted on the Nurse Aide I Registry, unless the person fails to pass the State of North Carolina's Nurse Aide I competency exam after three attempts.

*History Note: Authority G.S. 131E-255; 42 CFR 483.150; 42 CFR 483.151; 42 CFR 483.152; 42 CFR 483.154; 42 CFR 483.156; 42 CFR 483.158;*

*Eff. January 1, 2016;*

*Emergency Amendment Eff. April 20, 2020;*

*Temporary Amendment Eff. June 26, 2020;*

*Amended Eff. April 1, 2021.*

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**10A NCAC 41A .0101 REPORTABLE DISEASES AND CONDITIONS**

(a) The following named diseases and conditions are declared to be dangerous to the public health and are hereby made reportable within the time period specified after the disease or condition is reasonably suspected to exist:

- (1) acquired immune deficiency syndrome (AIDS) - 24 hours;
- (2) acute flaccid myelitis - 7 days;
- (3) anaplasmosis - 7 days;
- (4) anthrax - immediately;
- (5) arboviral infection, neuroinvasive - 7 days;
- (6) babesiosis - 7 days;
- (7) botulism - immediately;
- (8) brucellosis - 7 days;
- (9) campylobacter infection - 24 hours;
- (10) *Candida auris* - 24 hours;
- (11) Carbapenem-Resistant *Enterobacteriaceae* (CRE) - 24 hours;
- (12) chancroid - 24 hours;
- (13) chikungunya virus infection - 24 hours;
- (14) chlamydial infection (laboratory confirmed) - 7 days;
- (15) cholera - 24 hours;
- (16) Creutzfeldt-Jakob disease - 7 days;
- (17) cryptosporidiosis - 24 hours;
- (18) cyclosporiasis - 24 hours;
- (19) dengue - 7 days;
- (20) diphtheria - 24 hours;
- (21) *Escherichia coli*, shiga toxin-producing infection - 24 hours;
- (22) ehrlichiosis - 7 days;
- (23) foodborne disease, including *Clostridium perfringens*, staphylococcal, *Bacillus cereus*, and other and unknown causes - 24 hours;
- (24) gonorrhea - 24 hours;
- (25) granuloma inguinale - 24 hours;
- (26) *Haemophilus influenzae*, invasive disease - 24 hours;
- (27) Hantavirus infection - 7 days;
- (28) Hemolytic-uremic syndrome - 24 hours;
- (29) Hemorrhagic fever virus infection - immediately;
- (30) hepatitis A - 24 hours;
- (31) hepatitis B - 24 hours;
- (32) hepatitis B carriage - 7 days;
- (33) hepatitis C, acute - 7 days;
- (34) human immunodeficiency virus (HIV) infection confirmed - 24 hours;
- (35) influenza virus infection causing death - 24 hours;
- (36) legionellosis - 7 days;
- (37) leprosy - 7 days;
- (38) leptospirosis - 7 days;
- (39) listeriosis - 24 hours;
- (40) Lyme disease - 7 days;
- (41) Lymphogranuloma venereum - 7 days;
- (42) malaria - 7 days;
- (43) measles (rubeola) - immediately;
- (44) meningitis, pneumococcal - 7 days;
- (45) meningococcal disease - 24 hours;
- (46) Middle East respiratory syndrome (MERS) - 24 hours;
- (47) monkeypox - 24 hours;
- (48) mumps - 7 days;
- (49) nongonococcal urethritis - 7 days;
- (50) novel coronavirus infection causing death - 24 hours;
- (51) novel coronavirus infection - immediately;
- (52) novel influenza virus infection - immediately;
- (53) plague - immediately;
- (54) paralytic poliomyelitis - 24 hours;
- (55) pelvic inflammatory disease - 7 days;
- (56) psittacosis - 7 days;
- (57) Q fever - 7 days;
- (58) rabies, human - 24 hours;
- (59) rubella - 24 hours;
- (60) rubella congenital syndrome - 7 days;
- (61) salmonellosis - 24 hours;
- (62) severe acute respiratory syndrome (SARS) - 24 hours;
- (63) shigellosis - 24 hours;
- (64) smallpox - immediately;
- (65) spotted fever rickettsiosis - 7 days;
- (66) *Staphylococcus aureus* with reduced susceptibility to vancomycin - 24 hours;
- (67) streptococcal infection, Group A, invasive disease - 7 days;
- (68) syphilis - 24 hours;
- (69) tetanus - 7 days;
- (70) toxic shock syndrome - 7 days;
- (71) trichinosis - 7 days;
- (72) tuberculosis - 24 hours;
- (73) tularemia - immediately;
- (74) typhoid - 24 hours;
- (75) typhoid carriage (*Salmonella typhi*) - 7 days;
- (76) typhus, epidemic (louse-borne) - 7 days;
- (77) vaccinia - 24 hours;
- (78) varicella - 24 hours;
- (79) vibrio infection (other than cholera) - 24 hours;
- (80) whooping cough - 24 hours;
- (81) yellow fever - 7 days; and
- (82) zika virus - 24 hours.

(b) For purposes of reporting, "confirmed human immunodeficiency virus (HIV) infection" is defined as a positive virus culture, repeatedly reactive EIA antibody test confirmed by western blot or indirect immunofluorescent antibody test, positive nucleic acid detection (NAT) test, or other confirmed testing method approved by the Director of the State Public Health Laboratory conducted on or after February 1, 1990. In selecting additional tests for approval, the Director of the State Public Health Laboratory shall consider whether such tests have been

approved by the federal Food and Drug Administration, recommended by the federal Centers for Disease Control and Prevention, and endorsed by the Association of Public Health Laboratories.

(c) In addition to the laboratory reports for *Mycobacterium tuberculosis*, *Neisseria gonorrhoeae*, and syphilis specified in G.S. 130A-139, laboratories shall report using electronic laboratory reporting (ELR), secure telecommunication, or paper reports.

(1) Isolation or other specific identification of the following organisms or their products from human clinical specimens:

- (A) *Anaplasma* spp., the causes of anaplasmosis.
- (B) Any hantavirus.
- (C) Any hemorrhagic fever virus.
- (D) Arthropod-borne virus (any type).
- (E) *Babesia* spp., the cause of babesiosis.
- (F) *Bacillus anthracis*, the cause of anthrax.
- (G) *Bordetella pertussis*, the cause of whooping cough (pertussis).
- (H) *Borrelia burgdorferi*, the cause of Lyme disease (confirmed tests).
- (I) *Brucella* spp., the causes of brucellosis.
- (J) *Campylobacter* spp., the causes of campylobacteriosis.
- (K) *Candida auris*.
- (L) Carbapenem-Resistant Enterobacteriaceae (CRE).
- (M) *Chlamydia trachomatis*, the cause of genital chlamydial infection, conjunctivitis (adult and newborn) and pneumonia of newborns.
- (N) *Clostridium botulinum*, a cause of botulism.
- (O) *Clostridium tetani*, the cause of tetanus.
- (P) Coronavirus, novel human strain.
- (Q) *Corynebacterium diphtheriae*, the cause of diphtheria.
- (R) *Coxiella burnetii*, the cause of Q fever.
- (S) *Cryptosporidium* spp., the cause of human cryptosporidiosis.
- (T) *Cyclospora cayetanensis*, the cause of cyclosporiasis.
- (U) Dengue virus.
- (V) *Ehrlichia* spp., the causes of ehrlichiosis.
- (W) Shiga toxin-producing *Escherichia coli*, a cause of hemorrhagic colitis, hemolytic uremic syndrome, and thrombotic thrombocytopenic purpura.
- (X) *Francisella tularensis*, the cause of tularemia.
- (Y) Hepatitis A virus.

- (Z) Hepatitis B virus or any component thereof, such as hepatitis B surface antigen.
- (AA) Human Immunodeficiency Virus, the cause of AIDS.
- (BB) *Legionella* spp., the causes of legionellosis.
- (CC) *Leptospira* spp., the causes of leptospirosis.
- (DD) *Listeria monocytogenes*, the cause of listeriosis.
- (EE) Measles virus.
- (FF) Middle East respiratory syndrome virus.
- (GG) Monkeypox.
- (HH) Mumps virus.
- (II) *Mycobacterium leprae*, the cause of leprosy.
- (JJ) *Plasmodium falciparum*, *P. ovale*, and *P. vivax*, the causes of malaria in humans.
- (KK) Poliovirus (any), the cause of poliomyelitis.
- (LL) Rabies virus.
- (MM) *Rickettsia* spp., the cause of spotted fever rickettsiosis.
- (NN) Rubella virus.
- (OO) *Salmonella* spp., the causes of salmonellosis.
- (PP) *Shigella* spp., the causes of shigellosis.
- (QQ) Smallpox virus, the cause of smallpox.
- (RR) *Staphylococcus aureus* with reduced susceptibility to vancomycin.
- (SS) *Trichinella spiralis*, the cause of trichinosis.
- (TT) Vaccinia virus.
- (UU) Varicella virus.
- (VV) *Vibrio* spp., the causes of cholera and other vibrioses.
- (WW) Yellow fever virus.
- (XX) *Yersinia pestis*, the cause of plague.
- (YY) Zika virus.

(2) Isolation or other specific identification of the following organisms from normally sterile human body sites:

- (A) Group A *Streptococcus pyogenes* (group A streptococci).
- (B) *Haemophilus influenzae*, serotype b.
- (C) *Neisseria meningitidis*, the cause of meningococcal disease.

(3) Positive serologic test results, as specified, for the following infections:

- (A) Fourfold or greater changes or equivalent changes in serum antibody titers to:
  - (i) Any arthropod-borne virus associated with neuroinvasive disease.

- (ii) Anaplasma spp., the cause of anaplasmosis.
- (iii) Any hantavirus or hemorrhagic fever virus.
- (iv) Chlamydia psittaci, the cause of psittacosis.
- (v) Chikungunya virus.
- (vi) Coxiella burnetii, the cause of Q fever.
- (vii) Dengue virus.
- (viii) Ehrlichia spp., the causes of ehrlichiosis.
- (ix) Measles (rubeola) virus.
- (x) Mumps virus.
- (xi) Rickettsia rickettsii, the cause of Rocky Mountain spotted fever.
- (xii) Rubella virus.
- (xiii) Varicella virus.
- (xiv) Yellow fever virus.

(B) The presence of IgM serum antibodies to:

- (i) Any arthropod-borne virus associated with neuroinvasive disease.
- (ii) Chikungunya virus.
- (iii) Chlamydia psittaci.
- (iv) Dengue virus.
- (v) Hepatitis A virus.
- (vi) Hepatitis B virus core antigen.
- (vii) Mumps virus.
- (viii) Rubella virus.
- (ix) Rubeola (measles) virus.
- (x) Yellow fever virus.

(4) Laboratory results from tests to determine the absolute and relative counts for the T-helper (CD4) subset of lymphocytes and all results from tests to determine HIV viral load.

(5) Identification of CRE from a clinical specimen associated with either infection or colonization, including all susceptibility results and all phenotypic or molecular test results.

(d) Laboratories utilizing electronic laboratory reporting (ELR) shall report in addition to those listed under Paragraph (c) of this Rule:

- (1) All positive laboratory results from tests used to diagnosis chronic Hepatitis C Infection, including the following:
  - (A) Hepatitis C virus antibody tests (including the test specific signal to cut-off (s/c) ratio);
  - (B) Hepatitis C nucleic acid tests;
  - (C) Hepatitis C antigen(s) tests; and
  - (D) Hepatitis C genotypic tests.
- (2) All HIV genotypic test results, including when available:
  - (A) The entire nucleotide sequence; or

(B) The pol region sequence (including all regions: protease (PR)/reverse transcriptase (RT) and integrase (INI) genes, if available).

(3) All test results for Interferon Gamma Release Assays.

(e) For the purposes of reporting, Carbapenem-Resistant Enterobacteriaceae (CRE) are defined as:

- (1) Enterobacter spp., E.coli or Klebsiella spp positive for a known carbapenemase resistance mechanism or positive on a phenotypic test for carbapenemase production; or
- (2) Enterobacter spp., E.coli or Klebsiella spp resistant to any carbapenem in the absence of carbapenemase resistance mechanism testing or phenotypic testing for carbapenemase production.

*History Note: Authority G.S. 130A-134; 130A-135; 130A-139; 130A-141;*

*Amended Eff. October 1, 1994; February 1, 1990;*

*Temporary Amendment Eff. July 1, 1997;*

*Amended Eff. August 1, 1998;*

*Temporary Amendment Eff. February 13, 2003; October 1, 2002; February 18, 2002; June 1, 2001;*

*Amended Eff. April 1, 2003;*

*Temporary Amendment Eff. November 1, 2003; May 16, 2003;*

*Amended Eff. January 1, 2005; April 1, 2004;*

*Temporary Amendment Eff. June 1, 2006;*

*Amended Eff. April 1, 2008; November 1, 2007; October 1, 2006;*

*Temporary Amendment Eff. January 1, 2010;*

*Temporary Amendment Expired September 11, 2011;*

*Amended Eff. July 1, 2013;*

*Temporary Amendment Eff. December 2, 2014;*

*Amended Eff. October 1, 2015;*

*Emergency Amendment Eff. March 1, 2016;*

*Temporary Amendment Eff. July 1, 2016;*

*Amended Eff. January 1, 2018; October 1, 2016;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;*

*Amended Eff. October 1, 2018;*

*Emergency Amendment Eff. February 17, 2020;*

*Temporary Amendment Eff. April 24, 2020;*

*Amended Eff. April 1, 2021; July 1, 2020.*

## **TITLE 14B - DEPARTMENT OF PUBLIC SAFETY**

### **14B NCAC 17 .0202 EXPERIENCE REQUIREMENTS FOR LICENSE**

Applicants for an alarm system license shall meet the following requirements, which are in addition to those specified in G.S. 74D:

- (1) establish two year's experience within the past five years in alarm systems installation or service, or alarm systems business management; or
- (2) no longer than one year prior to the application date, complete the Certified Alarm Technician

Level I Course offered by the National Electronic Security Association, Elite CEU's online training course, or Complete Electrical Academy's Level I training course.

*History Note:* Authority G.S. 74D-5;  
*Temporary Rule Eff. January 9, 1984, for a period of 120 days to expire on May 7, 1984;*  
*Eff. May 1, 1984;*  
*Amended Eff. January 1, 2007; August 1, 1998; January 1, 1995; March 1, 1993; August 3, 1992; June 1, 1990;*  
*Transferred and Recodified from 12 NCAC 11 .0202 Eff. July 1, 2015;*  
*Amended Eff. December 1, 2017;*  
*Readopted Eff. June 1, 2018;*  
*Amended Eff. April 1, 2021.*

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#### **14B NCAC 19A .0101 SCOPE**

The rules in this Chapter are applicable to persons or entities in the State that have custody of any sexual assault evidence collection kits, including medical service providers, law enforcement agencies, forensic laboratories, and the Department of Public Safety Law Enforcement Support Services.

*History Note:* Authority G.S. 114-65;  
*Eff. April 1, 2021.*

#### **14B NCAC 19A .0102 DEFINITIONS**

As used in this Chapter:

- (1) "Covered entity" means an agency, medical facility, or medical professional, person, or entity subject to the System tracking requirements.
- (2) "Director" means the Director of the North Carolina State Crime Laboratory.
- (3) "Forensic laboratory" means a person, agency, or department that takes custody of a sexual assault evidence collection kit for purposes of conducting forensic testing.
- (4) "Forensic medical examination" means an examination provided to a sexual assault victim by medical personnel trained to gather evidence of a sexual assault in a manner suitable for use in a court of law and includes collection and evaluation of physical evidence.
- (5) "Kit" or "sexual assault evidence collection kit" means a prepared kit used to conduct a forensic medical examination.
- (6) "Law enforcement agency" means any police department, sheriff's office, campus police department, or any other person, agency, or department investigating a reported sexual assault for which a sexual assault evidence collection kit has been utilized by a medical service provider or that is taking possession of or storing an unreported or anonymous sexual assault evidence collection kit.

- (7) "Medical service provider" means a medical facility or medical professional in the State who administers a forensic medical examination using a sexual assault evidence collection kit.
- (8) "Previously untested kit" means a sexual assault evidence collection kit used in a forensic medical examination that has not undergone forensic testing and was identified and included in the 2017 Statewide inventory.
- (9) "Statewide System Administrator" means an employee of the North Carolina State Crime Laboratory who has responsibility for the overall administrative functions of the System, including providing assistance to covered entities, training all covered entities, making corrections in the system, and generating data reports for the Director's annual tracking report to the Joint Legislative Oversight Committee on Justice and Public Safety.
- (10) "System" means Sexual Assault Evidence Collection Kit Tracking and Inventory Management System (STIMS).
- (11) "System guidelines" means the guidelines published by the Director of the North Carolina State Crime Laboratory for use by covered entities.

*History Note:* Authority G.S. 114-65; 143B-1200;  
*Eff. April 1, 2021.*

#### **14B NCAC 19A .0103 STATEWIDE SYSTEM ADMINISTRATOR DESIGNATION**

- (a) The System shall be administered by the Statewide System Administrator.
- (b) The Statewide System Administrator shall:
  - (1) grant System access to each covered entity;
  - (2) provide training on the System and technical assistance to all local administrators; and
  - (3) keep a log of all notifications for entities out of compliance with the rules of this Chapter.
- (c) The Statewide System Administrator contact information is NCSTIMS@ncdoj.gov.

*History Note:* Authority G.S. 114-65;  
*Eff. April 1, 2021.*

#### **14B NCAC 19A .0104 COVERED ENTITY SYSTEM ACCESS; LOCAL ADMINISTRATORS**

- (a) Each covered entity shall access the System and require that its users are trained to enter kit information data in the System.
- (b) Each covered entity shall designate a local administrator, who shall provide his or her contact information to the Statewide System Administrator in writing, by mail, hand delivery, or email. The address for the State System Administrator is the State Crime Lab, 121 East Tryon Road, Raleigh, NC 27603. If a covered entity changes its local administrator or contact information for its local administrator, the covered entity shall update the System administrative information and provide written notice of the

change to the Statewide System Administrator within 10 business days.

(c) The local administrator shall report any issues requiring technical support to the Statewide System Administrator within two business days at NCSTIMS@ncdoj.gov.

*History Note: Authority G.S. 114-65;  
Eff. April 1, 2021.*

**14B NCAC 19B .0101 SYSTEM COMPATIBILITY FOR KITS**

Any State or local government agency responsible for the production of kits to be used in this State shall produce kits that are compatible with the System. A government agency that contracts for kit production by a vendor shall ensure that the vendor is contractually obligated to meet this requirement.

*History Note: Authority G.S. 114-65; 143B-1201;  
Eff. April 1, 2021.*

**14B NCAC 19B .0102 MEDICAL SERVICE PROVIDERS**

(a) Medical service providers shall:

- (1) In the System, receive all kits used for the collection of physical evidence during forensic medical examinations from the kit vendor;
- (2) make all required data entries in accordance with System guidelines; and
- (3) track all kit transfers from the provider to a law enforcement agency or to Law Enforcement Support Services (LESS) in the System.

(b) Prior to using any kit that does not already have a tracking number, the medical service provider shall affix a tracking label received from the Statewide System Administrator.

(c) The medical service provider shall inform the victim of the North Carolina Department of Justice Sexual Assault Kit Tracking Web Portal found at <https://www.sexualassaultkittracking.ncdoj.gov/SexualAssaultKitTracking/> and provide the victim with the kit tracking number to view kit tracking and testing information.

*History Note: Authority G.S. 114-65;  
Eff. April 1, 2021.*

**14B NCAC 19B .0103 LAW ENFORCEMENT AGENCIES**

(a) Each law enforcement agency in the State shall comply with System guidelines to track the:

- (1) receipt of kits by the law enforcement agency from medical service providers or Law Enforcement Support Services (LESS);
- (2) transfer of kits from the law enforcement agency to forensic laboratories; and
- (3) transfer of kits from forensic laboratories back to the law enforcement agency.

Each law enforcement agency shall enter all data in accordance with System guidelines and keep the data updated as the investigation of the incident evolves.

(b) When a law enforcement agency submits a kit to any private vendor laboratory or any public laboratory outside of North Carolina for forensic testing, the law enforcement agency shall coordinate with that forensic laboratory to ensure that entries for the tracking of the kit are made in the System, in accordance with System guidelines.

(c) Each law enforcement agency that receives into its custody a kit that does not already have an assigned tracking number shall affix a tracking label received from the Statewide System Administrator.

(d) Each law enforcement agency shall enter all data from each previously untested kit in its custody into the North Carolina SAKI online data collection tool. Kits entered in the collection tool will be placed into STIMS by the Statewide System Administrator to make them trackable. Each law enforcement agency shall send an e-mail to NCSAKI@ncdoj.gov to gain access to the online data collection tool.

*History Note: Authority G.S. 114-65;  
Eff. April 1, 2021.*

**14B NCAC 19B .0104 LAW ENFORCEMENT SUPPORT SERVICES**

Law Enforcement Support Services shall:

- (1) confirm all kits held or received into its custody have tracking labels;
- (2) enter tracking data in accordance with System guidelines; and
- (3) track the subsequent transfer of any kit to a law enforcement agency in the System.

*History Note: Authority G.S. 114-65;  
Eff. April 1, 2021.*

**14B NCAC 19B .0105 FORENSIC LABORATORIES**

(a) Any forensic laboratory in this State that takes custody of a kit for purposes of conducting forensic testing shall:

- (1) Enter the transfer and receipt of the kit in the tracking System in accordance with System guidelines;
- (2) Enter all data on the examination in accordance with System guidelines; and
- (3) Enter the transfer of the kit back to the submitting law enforcement agency in the tracking System in accordance with System guidelines.

(b) Any forensic laboratory in this State that receives into its custody a kit that does not already have tracking label shall affix a tracking label to the kit received from the Statewide System Administrator.

(c) North Carolina law enforcement agencies that submit kits to private vendor laboratories or public laboratories outside of this State for purposes of conducting forensic testing shall coordinate with those laboratories to ensure that entries for the tracking of the kit are made in the System in accordance with System guidelines.

*History Note: Authority G.S. 114-65;  
Eff. April 1, 2021.*

**14B NCAC 19B .0106 PREVIOUSLY UNTESTED KITS**

(a) Each covered entity's local administrator shall contact the Statewide System Administrator to obtain tracking labels designated for previously untested kits.

(b) Covered entities shall comply with System guidelines for submitting data to be used by the Statewide System Administrator to enter previously untested kits in their custody in the tracking System.

*History Note: Authority G.S. 114-65;  
Eff. April 1, 2021.*

**14B NCAC 19C .0101 DEFICIENCY CORRECTION AND SANCTIONS**

(a) The Statewide System Administrator shall give written or oral notice to any covered entity out of compliance with the rules of this Chapter. The notice shall include:

- (1) identification of the deficiency; and
- (2) notice that the deficiency must be corrected within 10 business days following notification.

(b) If a covered entity fails to correct the deficiency within 10 business days following notification, the Statewide System Administrator shall give written notice by mail, hand delivery, or email to the covered entity and such notice shall include:

- (1) identification of the deficiency; and
- (2) notice that the failure to resolve the identified deficiency within 10 business days following notification may result in the covered entity being listed in the Director's annual tracking report to the Joint Legislative Oversight Committee on Justice and Public Safety.

(c) The Statewide System Administrator shall keep a log of all notifications for entities out of compliance with the rules of this Chapter.

*History Note: Authority G.S. 114-65;  
Eff. April 1, 2021.*

**TITLE 15A - DEPARTMENT OF ENVIRONMENTAL QUALITY**

**15A NCAC 18A .1724 DISINFECTION OF WATER SYSTEMS**

(a) A water system regulated under this Section shall be disinfected upon completion of construction, maintenance, repairs, pump installation, or a report of a confirmed positive coliform sample. Wells shall be disinfected as required in 15A NCAC 02C .0111, which is hereby incorporated by reference, including any subsequent amendments and editions.

(b) A spring enclosure shall be disinfected upon completion of construction, maintenance, repairs, pump installation, or a report of a confirmed positive coliform sample as follows:

- (1) the interior surfaces of the spring enclosure shall be washed or swabbed with a chlorine solution of at least 100 milligrams per liter (mg/l) or greater of chlorine residual;
- (2) the disinfectant shall be poured into the spring, the service pipe shall be plugged, and water

(3) shall be retained in the spring storage for at least 24 hours, or disinfectant shall be fed into the spring continuously for at least 24 hours; and the spring shall flow to waste until no disinfectant can be measured with a test kit that measures chlorine levels.

*History Note: Authority G.S. 95-225; 130A-235; 130A-236; 130A-248; 130A-257; 130A-315;  
Eff. July 1, 1993;  
Readopted Eff. April 1, 2021.*

**15A NCAC 18A .3101 DEFINITIONS**

The following definitions shall apply throughout this Section:

- (1) "Child-occupied facility" means as defined at G.S. 130A-131.7(2).
- (2) "Department" means the North Carolina Department of Health and Human Services.
- (3) "High contact areas for children" means areas including sandboxes, gardens, play areas, pet sleeping areas, and areas within three feet of a residential housing unit or child-occupied facility.
- (4) "Residential housing unit" means as defined at G.S. 130A-131.7(16).
- (5) "Safe work practices" are methods used to avoid creating lead-based paint hazards during on-site work that disturbs paint that may contain lead as set forth in the United States Environmental Protection Agency publication "Steps to Lead Safe Renovation, Repair, and Painting," which is hereby incorporated by reference, including any subsequent amendments and editions, and available free of charge at: [https://www.epa.gov/sites/production/files/2013-11/documents/steps\\_0.pdf](https://www.epa.gov/sites/production/files/2013-11/documents/steps_0.pdf).
- (6) "Specialized cleaning" is the use of cleaning protocols that have been shown to be effective in removing lead-contaminated dust as set forth in the United States Department of Housing and Urban Development publication "Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing," which is hereby incorporated by reference, including any subsequent amendments and editions, and available free of charge at: [https://www.hud.gov/sites/documents/SECON\\_D\\_EDITION\\_2012.PDF](https://www.hud.gov/sites/documents/SECON_D_EDITION_2012.PDF).
- (7) "Visual inspection" means an on-site assessment by the Department or its agent authorized pursuant to 15A NCAC 01O .0101(4) to determine compliance with the approved remediation plan as set forth in G.S. 130A-131.9C.

*History Note: Authority G.S. 130A-131.5;  
Eff. October 1, 1990;*

*Transferred and Recodified from 15A NCAC 19I .0101 Eff. August 28, 1991;*  
*Transferred and Recodified from 15A NCAC 21E .0401 Eff. February 18, 1992;*  
*Amended Eff. August 1, 1996; January 1, 1995; July 1, 1992;*  
*Temporary Amendment Eff. November 21, 1997;*  
*Amended Eff. April 1, 1999;*  
*Readopted Eff. April 1, 2021.*

#### **15A NCAC 18A .3105 LEAD POISONING HAZARD AND CLEARANCE STANDARD FOR SOIL**

(a) Bare soil at a residential housing unit or a child-occupied facility is a lead poisoning hazard when:

- (1) it contains greater than 400 parts per million lead in high contact areas for children; or
- (2) except as specified in Subparagraph (a)(1) of this Rule, it contains 1200 parts per million lead or greater in other locations at a residential housing unit or a child-occupied facility.

(b) Unless other remediation is determined by the Department to be necessary to protect the public health based on site-specific evidence including soil lead bioavailability, soil lead speciation, soil particle size, land use and condition, or epidemiologic data, all remediation plans pursuant to G.S. 130A-131.9C shall require that bare soil lead concentrations greater than 400 parts per million at a residential housing unit or a child-occupied facility in high contact areas for children or bare soil areas containing 1200 parts per million lead or greater in other locations at a residential housing unit or a child-occupied facility be:

- (1) covered with four to six inches of gravel or mulch that shall be maintained and replaced as often as necessary to ensure there is four to six inches of cover;
- (2) covered with sod or other vegetative cover that shall be maintained and replaced as often as necessary to ensure there is sod or other vegetative cover;
- (3) physically restricted by a permanent barrier;
- (4) removed; or
- (5) paved over with concrete or asphalt.

*History Note: Authority G.S. 130A-131.5; 130A-131.7;*  
*Eff. October 1, 1990;*  
*Transferred and Recodified from 15A NCAC 19I .0105 Eff. August 28, 1991;*  
*Transferred and Recodified from 15A NCAC 21E .0405 Eff. February 18, 1992;*  
*Amended Eff. August 1, 1996; January 1, 1995;*  
*Temporary Amendment Eff. November 21, 1997;*  
*Amended Eff. April 1, 1999;*  
*Readopted Eff. April 1, 2021.*

#### **15A NCAC 18A .3107 MAINTENANCE STANDARD**

The following shall apply to property owners and managing agents of pre-1978 residential housing units implementing the maintenance standard set forth in Rule .3106(b) of this Section:

- (1) Property owners and managing agents shall use safe work practices to repair and repaint deteriorated paint on interior surfaces of a

residential housing unit and to correct the cause of deterioration, including structural conditions causing water infiltration, interior moisture, and poor paint adhesion. For pre-1950 single family and duplex residential housing units, property owners and managing agents shall repair and repaint both interior and exterior surfaces, including all walls, ceilings, windows, porches, decks, garages, railings, and steps, and shall correct the causes of deterioration. In addition, for pre-1950 single family and duplex residential housing units, property owners and managing agents shall establish and maintain a sod or other vegetative cover in areas of bare soil within three feet of the residential housing unit.

- (2) Property owners and managing agents shall conduct specialized cleaning on interior horizontal surfaces to remove dust that may contain lead.
- (3) Property owners and managing agents shall correct conditions in which painted surfaces are rubbing, binding, or being damaged to protect the integrity of the paint and to prevent the generation of lead dust.
- (4) Subject to the occupant's approval, property owners and managing agents shall steam shampoo carpets or use other specialized cleaning methods to remove dust that may contain lead.
- (5) Property owners and managing agents shall provide interior horizontal surfaces that are smooth, non-absorbent, and easy to clean by recoating deteriorated hardwood floors with a durable coating, replacing or recovering worn-out linoleum floors, making interior windowsills smooth and cleanable, capping window troughs with vinyl or aluminum coil stock, and providing drainage from storm window frames.
- (6) Property owners and managing agents shall provide occupants with the Environmental Protection Agency-developed pamphlets "Protect Your Family from Lead in Your Home," which is hereby incorporated by reference, including any subsequent amendments and editions, and available free of charge at: <https://www.epa.gov/lead/protect-your-family-lead-your-home-english> and "Renovate Right: Important Lead Hazard Information for Families, Child Care Providers, and Schools," which is hereby incorporated by reference, including any subsequent amendments and editions, and available free of charge at: <https://www.epa.gov/lead/renovate-right-important-lead-hazard-information-families-child-care-providers-and-schools-0>, summaries of any reports prepared pursuant to G.S. 130A-131.9A on lead-based paint hazards

at the property, and copies of previous certificates of compliance issued.

*History Note: Authority G.S. 130A-131.5;  
Temporary Adoption Eff. November 21, 1997;  
Eff. April 1, 1999;  
Readopted Eff. April 1, 2021.*

**15A NCAC 18A .3802 SAMPLE COLLECTION**

(a) Within 30 days after it issues a certificate of completion for a private drinking water well that is newly constructed, the local health department shall collect water samples and submit them to a certified laboratory for analyses or ensure that water samples are collected from the well by a certified laboratory and tested by a certified laboratory. All testing shall be done in accordance with the rules of this Section.

(b) The sample collector shall use aseptic sampling techniques for collection of coliform bacteria and sampling techniques and containers for chemical constituents following methods described in 40 CFR 141.23 and 40 CFR 143.4, which are hereby incorporated by reference including any subsequent amendments and editions, and available free of charge at: <https://www.ecfr.gov/>.

(c) Water samples shall be collected from the sample tap at the well or the closest accessible collection point to the water source at a threadless sample tap, provided the sampling point shall precede any water treatment devices.

(d) The well owner shall provide access and a source of power for the purpose of collecting the required water sample.

(e) For all newly constructed private drinking water wells, samples for total coliform and fecal coliform bacteria shall be collected after the disinfectant agent has been flushed from the well and water supply system. The water shall be free of disinfectant before collection of samples for bacteria. Required water samples shall not be collected from wells that are not constructed and located in accordance with the rules of 15A NCAC 02C .0100 and .0300, which are hereby incorporated by reference, including any subsequent amendments and editions.

(f) Samples shall be transported to the laboratory following the procedures for sample preservation and within holding times required in 40 CFR 141.23 and 143.4, and 141.21(f), which is hereby incorporated by reference including any subsequent amendments and editions, and available free of charge at: <https://www.ecfr.gov/>

*History Note: Authority G.S. 87-97;  
Eff. July 1, 2008;  
Readopted Eff. April 1, 2021.*

**TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS**

**CHAPTER 06 – BOARD OF BARBER EXAMINERS**

**21 NCAC 06F .0120 BARBER SCHOOL CURRICULA**

(a) The following categories and courses shall comprise the minimum course work for all students at barber schools:

Classroom Lecture and Study Periods:	<u>Hours</u>
Hygiene and Good Grooming, Professional Ethics	25
Bacteriology, Sterilization, Sanitation	50
Implements, Honing, Stropping, and Shaving	30
Men's Haircutting	20
Cutting and Styling Curly Hair, Mustaches, and Beards	10
Shampooing and Rinsing, Scalp and Hair Treatments	10
Theory of Massage and Facial Treatments	5
Men's Razor Cutting, Women's Razor, and Shear Cutting	30
Finger Waving Men's Hair, Air Waving, and Curling Iron Techniques	5
Permanent Waving For Men, Chemical Hair Relaxing, and Blow Drying	25
Hair Coloring	10
Men's Hair Pieces	5
The Skin, Scalp, and Hair	30
Disorders of the Skin, Scalp, and Hair	15
Anatomy and Physiology	10
Electricity Therapy, Light Therapy, and Chemistry	10
Barber Styling, Shop Management, and Product Knowledge	70
Licensing Laws and Rules and History of Barbering	20
Supervised Practice in Barbering:	
Shampooing and Scientific Hair and Scalp Treatments	55
Shaving	50



Tapered Hair Cutting	250
Hair Styling of Men and Women	400
Facials, Massages, and Packs	10
Bleaching, Frosting, Hair Coloring, and Body Permanents	90
Cutting and Fitting Hair Pieces	5
Hair Straightening	5
The Analyzing and Treatment of Hair and Skin Disorders	10

Lectures and Demonstrations on Practical Work:

Shampooing and Scientific Hair and Scalp Treatments	15
Shaving	20
Tapered Hair Cutting	70
Hair Styling of Men and Women	100
Facials, Massages, and Packs	5
Bleaching, Frosting, Hair Coloring, and Permanent Waving	30
Cutting and Fitting Hair Pieces	5
Hair Straightening	3
The Analyzing and Treating of Hair and Skin Disorders	10
Men's and Women's Razor Cutting	15

Total Hours 1528

(b) Barber schools shall offer no more than the following hours through online classes based on the curriculum set forth in Paragraph (a) of this Rule:

Classroom Lecture and Study Periods:	<u>Hours</u> 380
Supervised Practice in Barbering:	
Tapered Hair Cutting	25
Hair Styling of Men and Women	34
Bleaching, Frosting, Hair Coloring, and Body Permanents	35
Lectures and Demonstrations on Practical Work:	
Shampooing and Scientific Hair and Scalp Treatments	8
Shaving	5
Tapered Hair Cutting	20
Hair Styling of Men and Women	50
Bleaching, Frosting, Hair Coloring, and Permanent Waving	5
The Analyzing and Treating of Hair and Skin Disorders	7
Men's and Women's Razor Cutting	7

Total Online Hours 576

(c) All barber schools shall use course books and training materials specifically created for the purpose of teaching barbering skills. Unless the course book or training material has separate and distinct sections covering the practice of barbering, cosmetology course books and training materials are not acceptable.

(d) Through December 31, 2021, barber schools may offer all hours listed in Paragraph (a) of this Rule through online classes, Paragraph (b) of this Rule notwithstanding.

*History Note: Authority G.S. 86A-22(1); 86A-22(4); Eff. March 1, 1983; Amended Eff. June 1, 2008; May 1, 1989; Readopted Eff. July 1, 2016; Amended Eff. April 1, 2021.*

**21 NCAC 06F .0124 STUDENT HOURS**

(a) No student shall be given credit for more than eight total hours during any instruction day.

(b) Students shall record their start time by electronic means upon entering the school for practical or theory hours. Students shall not record any period of break from instruction, even if remaining on school premises.

(c) In meeting the minimum course work and designated barber school curricula required by Rule .0120 of this Section, no student shall be given credit for more than eight hours per month and 40 hours for the duration of enrollment in the school that were obtained by instruction or demonstration off school premises or from a field trip, except for hours received through online classes allowed under Rule .0120 of this Subchapter.

*History Note:* Authority G.S. 86A-22;  
*Eff. September 1, 2009;*  
*Readopted Eff. July 1, 2016;*  
*Amended Eff. April 1, 2021.*

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## **CHAPTER 28 - LANDSCAPE CONTRACTORS' LICENSING BOARD**

### **21 NCAC 28B .0406 EMERGENCY EXTENSIONS OF CONTINUING EDUCATION REQUIREMENTS: LICENSED LANDSCAPE CONTRACTORS**

- (a) All active licensees shall be granted a one-year extension of all continuing education requirements for the license year ending July 31, 2020. The required hours shall be reported no later than July 31, 2021.
- (b) The Board shall accept Board-approved continuing education credits previously obtained in compliance for the license year ending July 31, 2020 and shall apply those credits to the license year ending July 31, 2021.
- (c) This Rule does not affect any other licensure renewal requirements set forth in G.S. 89D and the rules set forth in this Subchapter.

*History Note:* Authority G.S. 89D-15(2); 89D-15(4); 89D-15(12); 89D-20(b);  
*Emergency Adoption Eff. April 16, 2020;*  
*Temporary Adoption Eff. June 26, 2020;*  
*Eff. April 1, 2021.*

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## **CHAPTER 30 – BOARD OF MASSAGE AND BODYWORK THERAPY**

### **21 NCAC 30 .0636 WAIVER OF SCHOOL REQUIREMENTS DURING DISASTER OR EMERGENCY**

- (a) If the Governor declares a state of emergency, classroom hours of supervised instruction that are not hands-on may be provided online, despite the requirement in Rule .0602(8) of this Subchapter.
- (b) For a student to receive credit in a course that is not hands-on, the student shall attend, in-class or online, 75 percent of the instructional hours of the course and shall also make up missed instructional hours to equal no less than 98 percent of the instructional hours in the course, pursuant to Rule .0620(11) of this Subchapter.
- (c) Schools shall not be required to revise the Student Enrollment Agreement required by Rule .0629 or School Catalog required by Rule .0630 to reflect the exceptions listed in this Rule.
- (d) The exceptions in this Rule shall only apply during the effective period of the state of emergency.

*History Note:* Authority G.S. 90-626;  
*Emergency Adoption Eff. April 17, 2020;*  
*Temporary Adoption Eff. July 24, 2020;*  
*Eff. April 1, 2021.*

### **21 NCAC 30 .0704 WAIVER OF CONTINUING EDUCATION REQUIREMENTS DURING DISASTER OR EMERGENCY**

- (a) If the Governor declares a state of emergency, the Board may allow all continuing education hours required by G.S. 90-630.5 and Rule .0701(b) of this Chapter to be obtained by distance learning. In making this determination, the Board shall consider the risk of harm to licensed massage and bodywork therapists attending in-classroom continuing education courses.
- (b) The exceptions in this Rule shall only apply during the effective period of the state of emergency.

*History Note:* Authority G.S. 90-626(9); 150B-19(6); S.L. 2020-97;  
*Emergency Adoption Eff. June 30, 2020;*  
*Emergency Adoption Expired Eff. September 13, 2020;*  
*Emergency Adoption Eff. November 25, 2020 to expire pursuant to S.L. 2020-97, s. 3.20;*  
*Eff. April 1, 2021.*

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## **CHAPTER 32 - MEDICAL BOARD**

### **21 NCAC 32B .1708 COVID-19 DRUG PRESERVATION RULE**

- (a) The following drugs are "Restricted Drugs" as that term is used in this Rule:

- (1) Hydroxychloroquine;
- (2) Chloroquine;
- (3) Lopinavir-ritonavir;
- (4) Ribavirin; and
- (5) Darunavir.

- (b) A physician or physician assistant shall prescribe a Restricted Drug only if that prescription bears a written diagnosis from the prescriber consistent with the evidence for its use.
- (c) When a patient has been diagnosed with COVID-19, any prescription of a Restricted Drug for the treatment of COVID-19 shall:

- (1) Indicate on the prescription that the patient has been diagnosed with COVID-19;
- (2) Be limited to no more than a 14-day supply; and
- (3) Not be refilled, unless a new prescription is issued in conformance with this Rule, including not being refilled through an emergency prescription refill.

- (d) A physician or physician assistant shall not prescribe a Restricted Drug for the prevention of, or in anticipation of, the contraction of COVID-19 by someone who has not yet been diagnosed.

- (e) A prescription for a Restricted Drug may be transmitted orally only if all information required by this Rule is provided to the pharmacy by the physician, physician assistant, or either of their agents, and that information is recorded in writing in accordance with 21 NCAC 46 .1819(e).

- (f) This Rule does not affect orders for administration to inpatients of health care facilities.

(g) This Rule does not apply to prescriptions for a Restricted Drug for a patient previously established on that particular Restricted Drug on or before March 10, 2020.

*History Note: Authority G.S. 90-5.1(a)(3);  
Emergency Adoption Eff. April 6, 2020;  
Temporary Adoption Eff. June 26, 2020;  
Eff. April 1, 2021.*

**21 NCAC 32M .0119 COVID-19 DRUG  
PRESERVATION RULE**

(a) The following drugs are "Restricted Drugs" as that term is used in this Rule:

- (1) Hydroxychloroquine;
- (2) Chloroquine;
- (3) Lopinavir-ritonavir;
- (4) Ribavirin; and
- (5) Darunavir.

(b) A nurse practitioner shall prescribe a Restricted Drug only if that prescription bears a written diagnosis from the prescriber consistent with the evidence for its use.

(c) When a patient has been diagnosed with COVID-19, any prescription of a Restricted Drug for the treatment of COVID-19 shall:

- (1) Indicate on the prescription that the patient has been diagnosed with COVID-19;
- (2) Be limited to no more than a 14-day supply; and
- (3) Not be refilled, unless a new prescription is issued in conformance with this Rule, including not being refilled through an emergency prescription refill.

(d) A nurse practitioner shall not prescribe a Restricted Drug for the prevention of, or in anticipation of, the contraction of COVID-19 by someone who has not yet been diagnosed.

(e) A prescription for a Restricted Drug may be transmitted orally only if all information required by this Rule is provided to the pharmacy by the nurse practitioner or nurse practitioner's agent, and that information is recorded in accordance with 21 NCAC 46 .1819(e).

(f) This Rule does not affect orders for administration to inpatients of health care facilities.

(g) This Rule does not apply to prescriptions for a Restricted Drug for a patient previously established on that particular Restricted Drug on or before March 10, 2020.

*History Note: Authority G.S. 90-5.1(a)(3); 90-18.2;  
Emergency Adoption Eff. April 21, 2020;  
Temporary Adoption Eff. June 26, 2020;  
Eff. April 1, 2021.*

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**CHAPTER 34 – BOARD OF FUNERAL SERVICE**

**21 NCAC 34B .0309 LICENSE RENEWAL FORM**

(a) To renew a funeral director, funeral service, or embalmer's license, the licensee annually shall complete and submit to the Board a renewal application. Failure to submit a completed

renewal application by February 1 shall cause the licensee's license to be forfeited.

(b) The renewal form shall contain the following:

- (1) The licensee's full name and license number;
- (2) The licensee's physical address of personal residence, mailing address, and phone number(s);
- (3) The licensee's current place of employment, work address, and telephone number;
- (4) Whether the licensee's place of employment changed since the previous renewal application was submitted;
- (5) Whether the licensee is on active or inactive status pursuant to G.S. 90-210.25(2);
- (6) Whether the licensee is requesting to be on active or inactive status pursuant to G.S. 90-210.25(2) for the next year;
- (7) Whether the licensee has been convicted of a felony or misdemeanor crime (excluding traffic infractions) since the previous renewal application was submitted and, if so, a statement providing the jurisdiction, charge, and disposition of each conviction;
- (8) Whether the licensee has had an occupational or business license denied, suspended, or revoked by any local, state, or federal agency since the previous renewal application was submitted and, if so, a statement providing the reason for the denial and the date, location, and circumstances of any violation that led to action against your license, the terms of any discipline imposed by the licensing authority, and whether said terms have been satisfied;
- (9) Whether the licensee has been subject to any investigation for employee misclassification since the previous renewal application was submitted;
- (10) Whether the licensee has received credit for attending at least five continuing education credits of courses approved by the Board since the previous renewal application was submitted and, if so, copies of all continuing education forms showing courses attending that have not been already submitted to the Board;
- (11) If the licensee is claiming an exemption from continuing education requirements, the basis for which the licensee is claiming the exemption;
- (12) The licensee's signature to certify that he or she has prepared the application and has read the answers; that the information provided in the application is true; and that he or she has read the NC Industrial Commission Public Notice Statement; and
- (13) The application fee, as prescribed by G.S. 90-210.28 and 21 NCAC 34A .0201. If the application fee is dishonored by the licensee's drawee bank for any reason, the Board shall

suspend the license until the renewal fees and non-sufficient fund charges are paid.

*History Note:* Authority G.S. 90-210.23(a); 90-210.25(a)(5); 90-210.28;  
*Eff. February 1, 1976;*  
*Readopted Eff. September 27, 1977;*  
*Amended Eff. November 1, 2004;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017;*  
*Amended Eff. April 1, 2021.*

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## **CHAPTER 40 – BOARD OF OPTICIANS**

### **21 NCAC 40 .0113 WAIVER**

(a) The Board may waive any rule in this Chapter that is not statutorily required if a licensee, business or training establishment, trainee, or continuing education course provider submits a written request. Factors the Board shall use in determining whether to grant the waiver are:

- (1) degree of disruption to the Board;
- (2) cost to the Board;
- (3) degree of benefit to the public;
- (4) whether the requesting party had control over the circumstances that required the requested waiver;
- (5) notice to and opposition by the public;
- (6) need for the waiver; and
- (7) previous requests for waivers submitted from the requesting party.

(b) The Board may waive any rule in this Chapter that is not statutorily required upon its own initiative during an exercise of emergency authority by a federal, state, or local governmental authority impacting North Carolina citizens based on the factors set forth in Paragraph (a)(1), (2), (3), (5) and (6) of this Rule. If the Board wishes to waive a rule, it shall provide notice by posting a link on their website and sending out information to their interested persons mailing list.

*History Note:* Authority G.S. 90-249; 150B-19(6);  
*Emergency Adoption Eff. April 9, 2020;*  
*Temporary Adoption Eff. June 1, 2020;*  
*Eff. April 1, 2021.*

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## **CHAPTER 66 - VETERINARY MEDICAL BOARD**

### **21 NCAC 66 .0309 PETITION FOR INACTIVE STATUS**

(a) Any licensed veterinarian or registrant who is in good standing with the Board and who has ceased practicing veterinary medicine may apply for inactive status. The Board may place the licensed veterinarian or registrant on an inactive list of members. A licensed veterinarian or registrant who has obtained the inactive status shall not practice veterinary medicine or be required to pay

the license or registrant renewal as prescribed in G.S. 90-187.5 or 90-186(4) or required to earn continuing education credits.

(b) Any veterinarian or registrant who has been placed on inactive status and who desires to be reinstated or to resume practicing veterinary medicine may be reinstated upon the determination by the Board that:

- (1) The inactive veterinarian or registrant is competent to practice veterinary medicine;
- (2) The veterinarian or registrant shall pay the required license renewal fee for the current year when the application is filed; and
- (3) The veterinarian or registrant shall earn the required continuing education credits in the year preceding reinstatement.

*History Note:* Authority G.S. 90-185(2); 90-185(6); 90-186(5); 90-187.6;  
*Eff. June 1, 1987;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;*  
*Amended Eff. April 1, 2021.*

## **TITLE 26 - OFFICE OF ADMINISTRATIVE HEARINGS**

### **26 NCAC 03 .0502 GENERAL**

(a) The Office of Administrative Hearings shall permit documents filed and served in a contested case to be filed and served electronically by means of the Electronic Filing Service Provider. All attorneys, mediators, and other parties using e-OAH shall register to use the system through a link on the OAH website at [www.ncoah.com](http://www.ncoah.com). All e-OAH users shall keep current their electronic mail address in e-OAH. When all attorneys and unrepresented parties to a contested case are registered in e-OAH, all documents filed and served in that contested case shall be filed and served electronically by means of the Electronic Filing Service Provider.

(b) In contested cases filed in e-OAH, registration as an e-OAH user constitutes consent to electronic service and receipt of contested case documents, including a notice of hearing given by OAH, by means of the Electronic Filing Service Provider.

(c) An e-OAH user shall be responsible for the readability of any document filed or served electronically by that user. Within five business days of receipt of an unreadable document filed or served electronically, the receiving party shall notify the sending party of the unreadability of the document.

(d) Pleadings and other documents filed or served electronically shall contain the electronic signature of the attorney, mediator, or party who prepared the document and the preparer's name, mailing address, electronic mail address, and telephone number. Documents prepared by an attorney shall have the attorney's North Carolina State Bar number. An attorney registered as an e-OAH user in a non-Medicaid contested case shall electronically file a notice of appearance in that contested case. An attorney's electronic signature to a petition for a contested case filed electronically shall be that attorney's notice of appearance in that contested case.

(e) Documents filed in e-OAH are filed when received by the chief hearings clerk of the Office of Administrative Hearings.

Upon completion of filing, the clerk shall send the e-OAH user a confirmation receipt that includes the date and time of filing which shall be proof of filing.

(f) Documents filed electronically after 5 pm shall be deemed filed at 8 am the following business day.

(g) Documents filed in a contested case by an e-OAH user shall be filed electronically by means of the Electronic Filing Service Provider, shall be served electronically by means of the Electronic Filing Service Provider on all other attorneys or other parties registered in e-OAH in that contested case, and shall include a certificate of service.

(h) A subpoena issued in a contested case by the chief hearings clerk of the Office of Administrative Hearings shall be signed electronically by the clerk.

(i) In contested cases filed electronically, the applicable filing fee shall be:

- (1) forwarded by first class mail or overnight express mail contemporaneously with the electronic filing;
- (2) paid personally to the chief hearings clerk of the Office of Administrative Hearings within five business days of the filing; or
- (3) paid by electronic funds transfer.

(j) If e-OAH experiences technical failure that prevents the Office of Administrative Hearings from receiving filings in e-OAH in accordance with the Rules in this Section, either continuously or intermittently over the course of any period of time that, after 12:00 noon on such day, amounts to more than one hour, filings due that day that were not filed due to technical failure shall become due the next business day. Such delayed filings shall be deemed timely filed if accompanied by a certification attesting to the e-OAH user's failed attempts to file electronically at least two times after 12:00 noon separated by more than one hour on each day that e-OAH experiences technical failure. If a document must be filed to meet a statutory deadline on a date that e-OAH experiences technical failure, the e-OAH user shall file that document with the Office of Administrative Hearings pursuant to Rule .0101(b) or Rule .0102(a)(2)(A) of this Chapter and shall serve that document pursuant to Rule .0102(a)(3) of this Chapter.

*History Note:* Authority G.S. 7A-750; 150B-23; 150B-23.2; 150B-23.3;

*Eff. March 1, 2016;*

*Amended Eff. April 1, 2021; April 1, 2017; October 1, 2016.*

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## **RULES REVIEW COMMISSION**

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*This Section contains information for the meeting of the Rules Review Commission May 20, 2021 at 1711 New Hope Church Road, RRC Commission Room, Raleigh, NC. Anyone wishing to submit written comment on any rule before the Commission should submit those comments to the RRC staff, the agency, and the individual Commissioners. Specific instructions and addresses may be obtained from the Rules Review Commission at 984-236-1850. Anyone wishing to address the Commission should notify the RRC staff and the agency no later than 5:00 p.m. of the 2<sup>nd</sup> business day before the meeting. Please refer to RRC rules codified in 26 NCAC 05.*

### **RULES REVIEW COMMISSION MEMBERS**

#### **Appointed by Senate**

Jeanette Doran (Chair)  
Robert A. Bryan, Jr.  
Margaret Currin  
Jeff Hyde  
Robert A. Rucho

#### **Appointed by House**

Anna Baird Choi (1st Vice Chair)  
Andrew P. Atkins (2nd Vice Chair)  
Paul Powell  
Randy Overton  
Vacant

### **COMMISSION COUNSEL**

Amber Cronk May	984-236-1936
Amanda Reeder	984-236-1939
Ashley Snyder	984-236-1941

### **RULES REVIEW COMMISSION MEETING DATES**

May 20, 2021	June 17, 2021
July 15, 2021	August 19, 2021

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### **AGENDA**

#### **RULES REVIEW COMMISSION**

**Thursday, May 20, 2021 9:00 A.M.**

**1711 New Hope Church Rd., Raleigh, NC 27609**

- I. Ethics reminder by the chair as set out in G.S. 138A-15(e)
- II. Approval of the minutes from the last meeting
- III. Follow-up matters
  - A. Department of Environmental Quality – 01 NCAC 41C .0101, .0201, .0202, .0203, .0204, .0205, .0206, .0207, .0208, .0209, .0210, .0211, .0301, .0302, .0303; 41D .0101, .0102, .0201, .0202, .0301, .0302, .0401 (Reeder)
  - B. Coastal Resources Commission - 15A NCAC 07H .0401, .0404, .0405, .0406; 07J .0403, .0404, .0405, .0406, .0407, .0409, .0410; 07K .0207 (Snyder)
  - C. Department of Transportation - Division of Motor Vehicles - 19A NCAC 03C .0202, .0220, .0221, .0222, .0223, .0224, .0226, .0228, .0230, .0232, .0234, .0235, .0236, .0403, .0404, .0414, .0419, .0420, .0421, .0424, .0425, .0426, .0428, .0429, .0432, .0433, .0436, .0501, .0520, .0521; 03E .0401 (May)
  - D. Board of Environmental Health Specialist Examiners - 21 NCAC 62 .0407, .0411 (May)
  - E. Building Code Council - Residential Code, N1101.13(R401.2) (Reeder)
- IV. Review of Log of Filings (Permanent Rules) for rules filed between March 23, 2021 through April 20, 2021
  - Sheriffs' Education and Training Standards Commission (Reeder)
  - Department of Transportation - Division of Motor Vehicles (Snyder)
  - Board of Dental Examiners (Reeder)
  - Interpreter and Transliterator Licensing Board (Reeder)
  - Landscape Contractors' Licensing Board (May)
  - Medical Board (Reeder)
  - Board of Nursing (Reeder)
  - Onsite Wastewater Contractors and Inspectors Certification Board (May)
  - Real Estate Commission (Snyder)
  - Respiratory Care Board (Reeder)
  - Board of Examiners for Speech and Language Pathologists and Audiologists (May)
  - Building Code Council (Reeder)

- V. Review of Log of Filings (Temporary Rules) for any rule filed within 15 business days prior to the RRC Meeting
  - VI. Existing Rules Review
  - VII. Commission Business
    - Next meeting: June 17, 2021
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**Commission Review  
Log of Permanent Rule Filings  
March 23, 2021 through April 20, 2021**

**SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION**

The rules in Subchapter 10B govern the commission organization and procedure (.0100); enforcement rules (.0200); minimum standards for employment as a justice officer (deputy or jailer) (.0300); certification of justice officers (.0400); standards and accreditation for justice officers schools, training programs, and the instructors (.0500-.0900); certificate and awards programs for sheriffs, deputies, justice officers, jailers, reserve officers, and telecommunicators (.1000-.1700); in-service training (.2000); and firearms in-service training and re-qualification (.2100).

<u>Background Investigation</u>	12	NCAC	10B	.0305
Amend*				

**TRANSPORTATION - MOTOR VEHICLES, DIVISION OF**

The rules in Subchapter 3F concern the collision reports/general services section including statistical data assembled and published (.0200); and safety and financial responsibility (.0600).

<u>Traffic Accident Summary</u>	19A	NCAC	03F	.0201
Readopt without Changes*				

<u>Fatal Accident Reports</u>	19A	NCAC	03F	.0202
Readopt without Changes*				

<u>Special Holiday Reports</u>	19A	NCAC	03F	.0203
Readopt without Changes*				

<u>Administrative Financial Responsibility Hearings</u>	19A	NCAC	03F	.0602
Readopt without Changes*				

The rules in Subchapter 3G concern the school bus and traffic safety section including general information (.0100); school bus driver training and certification (.0200); restricted instruction permit (.0300); driver improvement clinics (.0400); and driver education program (.0600).

<u>Transfer of Certification</u>	19A	NCAC	03G	.0208
Readopt without Changes*				

<u>Date of Cancellation</u>	19A	NCAC	03G	.0212
Readopt/Repeal*				

<u>Driver Education Permit</u>	19A	NCAC	03G	.0301
Readopt without Changes*				

The rules in Subchapter 3I concern the rules and regulations governing the licensing of commercial driver education training schools and instructors including general provisions (.0100); requirements and applications for commercial driving training schools (.0200); school location: physical facilities and courses of instruction (.0300); motor vehicles used in instruction (.0400); requirements and application for driver training instructor (.0500); contracts (.0600); bonding and advertising (.0700); and license revocation or suspension (.0800).

<u>Classroom Facility</u>	19A	NCAC	03I	.0303
Readopt without Changes*				

<u>Courses of Instruction</u>	19A	NCAC	03I	.0307
Readopt without Changes*				

<u>Registration: Insurance: Inspection</u>	19A	NCAC	03I	.0402
Readopt without Changes*				
<u>Requirements</u>	19A	NCAC	03I	.0501
Readopt without Changes*				

The rules in Subchapter 3J concern the rules and regulations governing the licensing of commercial truck driver training schools and instructors including commercial driver training schools (.0100); requirements and applications for commercial truck driver training schools (.0200); school location: physical facilities: and courses of instruction (.0300); motor vehicles used in instruction (.0400); requirements and applications for driver training instructor (.0500); contracts (.0600); bonding and advertising (.0700); license revocation or suspension (.0800); and requirements and applications for driver training school recruiters (.0900).

<u>Requirements</u>	19A	NCAC	03J	.0201
Readopt without Changes*				
<u>Duplicate Copy</u>	19A	NCAC	03J	.0204
Readopt without Changes*				
<u>Classroom Facility</u>	19A	NCAC	03J	.0303
Readopt without Changes*				
<u>Inspections</u>	19A	NCAC	03J	.0305
Readopt without Changes*				
<u>Courses of Instruction</u>	19A	NCAC	03J	.0306
Readopt without Changes*				
<u>Student Requirements</u>	19A	NCAC	03J	.0307
Readopt without Changes*				
<u>Registration: Insurance: Inspection</u>	19A	NCAC	03J	.0402
Readopt without Changes*				
<u>Requirements</u>	19A	NCAC	03J	.0601
Readopt without Changes*				

#### **DENTAL EXAMINERS, BOARD OF**

The rules in Subchapter 16J concern sanitation.

<u>Premises</u>	21	NCAC	16J	.0101
Amend*				
<u>Sterilization and Infection Control</u>	21	NCAC	16J	.0103
Amend*				

#### **INTERPRETER AND TRANSLITERATOR LICENSING BOARD**

The rules in Chapter 25 are from the Interpreter and Transliterators Board including general provisions (.0100); licensing (.0200); moral fitness for licensure (.0300); reporting and disclosure requirements (.0400); continuing education (.0500); administrative procedure (.0600); and sanctions (.0700).

<u>Continuing Education Requirements</u>	21	NCAC	25	.0501
Amend*				

#### **LANDSCAPE CONTRACTORS' LICENSING BOARD**

The rules in Subchapter 28B are from the Landscape Contractors' Licensing Board and include board meetings and definitions (.0100); licensure, reciprocity and seal (.0200); license renewal and reinstatement (.0300); continuing education (.0400); minimum standards (.0500); fees (.0600); complaints and investigations (.0700); and hearings process and summary suspension (.0800).



<u>Fee Schedule</u>	21	NCAC	28B	.0601
Amend*				

## **MEDICAL BOARD**

The rules in Subchapter 32M regulate the approval, registration and practice of nurse practitioners (.0100).

<u>Definitions</u>	21	NCAC	32M	.0101
Amend*				
<u>Scope of Practice</u>	21	NCAC	32M	.0102
Amend*				
<u>Nurse Practitioner Registration</u>	21	NCAC	32M	.0103
Amend*				
<u>Education and Certification Requirements for Registration...</u>	21	NCAC	32M	.0105
Amend*				
<u>Annual Renewal of Approval to Practice</u>	21	NCAC	32M	.0106
Amend*				
<u>Continuing Education (CE)</u>	21	NCAC	32M	.0107
Amend*				
<u>Inactive Status</u>	21	NCAC	32M	.0108
Amend*				
<u>Quality Assurance Standards for a Collaborative Practice ...</u>	21	NCAC	32M	.0110
Amend*				

## **NURSING, BOARD OF**

The rules in Chapter 36 include rules relating to general provisions (.0100); licensure (.0200); approval of nursing programs (.0300); unlicensed personnel and nurses aides (.0400); professional corporations (.0500); articles of organization (.0600); nurse licensure compact (.0700); and approval and practice parameters for nurse practitioners (.0800).

<u>Definitions</u>	21	NCAC	36	.0801
Amend*				
<u>Scope of Practice</u>	21	NCAC	36	.0802
Amend*				
<u>Nurse Practitioner Registration</u>	21	NCAC	36	.0803
Amend*				
<u>Education and Certification Requirements for Registration...</u>	21	NCAC	36	.0805
Amend*				
<u>Annual Renewal of Approval to Practice</u>	21	NCAC	36	.0806
Amend*				
<u>Continuing Education (CE)</u>	21	NCAC	36	.0807
Amend*				
<u>Inactive Status</u>	21	NCAC	36	.0808
Amend*				
<u>Quality Assurance Standards for a Collaborative Practice ...</u>	21	NCAC	36	.0810
Amend*				
<u>Reporting Criteria</u>	21	NCAC	36	.0815
Amend*				
<u>COVID-19 Drug Preservation Rule</u>	21	NCAC	36	.0817
Adopt*				

**ONSITE WASTEWATER CONTRACTORS AND INSPECTORS CERTIFICATION BOARD**

The rules in Chapter 39 are from the Onsite Wastewater Contractors and Inspectors Certification Board and include duties and definitions (.0100); certification of onsite wastewater contractors, inspectors, or authorized on-site wastewater evaluators (.0200); onsite wastewater contractor, inspector, or evaluator fees (.0300); certification by examination (.0400); certification renewal (.0500); continuing education requirements (.0600); procedures for disciplinary actions (.0700); onsite wastewater contractor, inspector, evaluator code of ethics (.0800); rulemaking procedures (.0900); NC on-site wastewater inspector standards of practice (.1000); and NC on-site wastewater evaluator standards of practice (.1100).

<u>Definitions</u>	21	NCAC	39	.0101
Amend*				
<u>Types of Certification</u>	21	NCAC	39	.0102
Amend*				
<u>Application Requirements for Certification</u>	21	NCAC	39	.0201
Amend*				
<u>Schedule of Certification Fees</u>	21	NCAC	39	.0301
Amend*				
<u>On-site Wastewater Contractor, Inspector, or Evaluator Ex...</u>	21	NCAC	39	.0401
Amend*				
<u>Time and Place of Examination</u>	21	NCAC	39	.0402
Amend*				
<u>Issuance of Certificates</u>	21	NCAC	39	.0404
Amend*				
<u>Licensure for Military-Trained Applicant; Licensure for M...</u>	21	NCAC	39	.0405
Amend*				
<u>Requirements</u>	21	NCAC	39	.0601
Amend*				
<u>Approval of Continuing Education Courses</u>	21	NCAC	39	.0602
Amend*				
<u>Determination of Credit</u>	21	NCAC	39	.0603
Repeal*				
<u>Recordkeeping</u>	21	NCAC	39	.0604
Amend*				
<u>Extension of Time</u>	21	NCAC	39	.0605
Amend*				
<u>Revocation, or Suspension of Certification</u>	21	NCAC	39	.0701
Amend*				
<u>Code of Ethics</u>	21	NCAC	39	.0801
Amend*				
<u>Waiver</u>	21	NCAC	39	.0904
Adopt*				
<u>Definitions</u>	21	NCAC	39	.1001
Amend*				
<u>General Requirements for Contractors and Inspectors</u>	21	NCAC	39	.1002
Amend*				
<u>Definitions</u>	21	NCAC	39	.1101
Adopt*				
<u>General Requirements for Evaluators</u>	21	NCAC	39	.1102
Adopt*				
<u>General Exclusions for Evaluators</u>	21	NCAC	39	.1103
Adopt*				

<u>Required Documents for Evaluators</u> Adopt*	21	NCAC	39	.1104
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## **REAL ESTATE COMMISSION**

The rules in Chapter 58 are from the North Carolina Real Estate Commission. The rules in Subchapter 58A are rules relating to real estate brokers and salesmen including rules dealing with general brokerage (.0100); application for license (.0300); examinations (.0400); licensing (.0500); real estate commission hearings (.0600); petitions for rules (.0700); rulemaking (.0800); declaratory rulings (.0900); real estate education and recovery fund (.1400); discriminatory practices prohibited (.1600); mandatory continuing education (.1700); limited nonresident commercial licensing (.1800); post-licensure education (.1900); annual reports (.2000); brokers in military service (.2100); and broker price opinions and comparative market analyses (.2200).

<u>Agency Agreements and Disclosure</u> Amend*	21	NCAC	58A	.0104
<u>Advertising</u> Amend*	21	NCAC	58A	.0105
<u>Broker-In-Charge</u> Amend*	21	NCAC	58A	.0110
<u>Residential Property and Owners' Association Disclosure S...</u> Amend*	21	NCAC	58A	.0114
<u>Prohibited Acts</u> Adopt*	21	NCAC	58A	.0120
<u>License Renewal</u> Amend*	21	NCAC	58A	.0503
<u>Fair Housing</u> Amend*	21	NCAC	58A	.1601
<u>Standards</u> Amend*	21	NCAC	58A	.2202

The rules in Subchapter 58H concern real estate education including general rules (.0100); real estate schools (.0200); approved instructors (.0300); and real estate courses (.0400).

<u>Denial, Withdrawal, or Termination of Education Provider ...</u> Amend*	21	NCAC	58H	.0210
<u>Denial or Withdrawal of Instructor Approval</u> Amend*	21	NCAC	58H	.0303

## **RESPIRATORY CARE BOARD**

The rules in Chapter 61 are from the Respiratory Care Board and concern organization and definitions (.0100); application for license (.0200); licensing (.0300); continuing education requirements for license holders (.0400); miscellaneous provisions (.0500); rulemaking and declaratory rulings (.0600); and administrative hearing procedures (.0700).

<u>Rule Waivers</u> Adopt*	21	NCAC	61	.0901
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## **SPEECH AND LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS, BOARD OF EXAMINERS FOR**

The rules in Chapter 64 are from the Board of Examiners for Speech and Language Pathologists and Audiologists and include general provisions (.0100); interpretative rules (.0200); code of ethics (.0300); rulemaking petitions (.0400); notice of rulemaking (.0500); conduct of rulemaking hearings (.0600); declaratory rulings (.0700); contested case hearings (.0800); other matters relating to administrative hearings (.0900); use of speech/language pathology assistants (.1000); and requirements for the use of audiology assistants in direct service delivery.

<u>Waiver</u> Adopt*	21	NCAC	64	.0108
<u>Telepractice</u> Amend*	21	NCAC	64	.0219
<u>Definitions</u> Adopt*	21	NCAC	64	.1101
<u>General Requirements</u> Adopt*	21	NCAC	64	.1102
<u>Licensee Requirements</u> Adopt*	21	NCAC	64	.1103
<u>Authorized Tasks of Audiology Assistants</u> Adopt*	21	NCAC	64	.1104
<u>Supervision and Continuing Competence Requirements</u> Adopt*	21	NCAC	64	.1105

**BUILDING CODE COUNCIL**

<u>2018 NC Residential Code/Definitions</u> Amend*	R202
<u>2018 NC Residential Code/Compliance</u> Amend*	N1101.13
<u>2018 NC Residential Code/Referenced Standards</u> Amend*	Chapter 44
<u>2018 NC Fire and Building Codes/Delayed Egress</u> Amend*	1010.1.9.7

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**CONTESTED CASE DECISIONS**

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*This Section contains a listing of recently issued Administrative Law Judge decisions for contested cases that are non-confidential. Published decisions are available for viewing on the OAH website at <http://www.ncoah.com/hearings/decisions/>. If you are having problems accessing the text of the decisions online or for other questions regarding contested cases or case decisions, please contact the Clerk's office by email: [oah.clerks@oah.nc.gov](mailto:oah.clerks@oah.nc.gov) or phone 984-236-1850.*

**OFFICE OF ADMINISTRATIVE HEARINGS****Chief Administrative Law Judge****JULIAN MANN, III****Senior Administrative Law Judge****FRED G. MORRISON JR.****ADMINISTRATIVE LAW JUDGES**

Melissa Owens Lassiter  
J. Randall May  
David Sutton  
Selina Malherbe

J. Randolph Ward  
Stacey Bawtinheimer  
Tenisha Jacobs  
Michael Byrne  
Karlene Turrentine

Year	Code	Number	Date Decision Filed	Petitioner		Respondent	ALJ
				<b><u>Published</u></b>			
20	DOJ	03445	3/31/2021	Jason Thomas Riley	v.	NC Sheriffs Education and Training Standards Commission	Ward
20	DOJ	03446	3/11/2021	Joseph Daniel Pilgreen	v.	NC Sheriffs Education and Training Standards Commission	Bawtinheimer
20	DOJ	03448	3/10/2021	Trey-Vaughn Xavier Lewis	v.	NC Sheriffs Education and Training Standards Commission	Bawtinheimer
20	DOJ	03451	3/25/2021	Rickie Lee Day	v.	NC Sheriffs Education and Training Standards Commission	Gray
20	DOJ	04152	3/19/2021	Lenisha Monique Ward	v.	NC Sheriffs Education and Training Standards Commission	Bawtinheimer
20	DOJ	04578	3/12/2021	Christopher Lee Jackson	v.	NC Criminal Justice Education and Training Standards Commission	Byrne
20	DOJ	05454	3/26/2021	Tracy Marie Nowak	v.	NC Sheriffs Education and Training Standards Commission	Byrne
20	DOL	01040	3/10/2021	ALMY LLC	v.	NC Department of Labor	May
20	DOL	03331	3/29/2021	Hycroft LLC	v.	NC DOL	Jacobs
20	INS	05271	3/9/2021	Carla Eisenberg	v.	North Carolina Department of State Treasurer	Malherbe
20	OSP	03292	3/17/2021	Leroy Williams	v.	Fayetteville State University	Lassiter
20	OSP	03751	3/3/2021	Sheerlene Artis-Carlton	v.	NC Division of Motor Vehicles	Bawtinheimer
20	SOS	03976	3/29/2021	Santino M East Sr	v.	NC Department of the Secretary of State	Jacobs

**CONTESTED CASE DECISIONS**

				<u>Unpublished</u>			
21	ABC	00077	3/25/2021; 3/26/2021	NC Alcoholic Beverage Control Commission	v.	Champs Lounge LLC T/A Champs Lounge	Byrne
20	CPS	03998	3/29/2021	Tawanda McKinney	v.	North Carolina Department of Public Safety Victim Services	May
21	CPS	00302	3/24/2021	Jennifer L Langley	v.	Townsend, Randol Preston Alexander Correctional Institution/NC DPS	May
20	CSE	04153	2/24/2021; 3/24/2021	Jimmy Danil Rayban	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Sutton
20	CSE	04210	3/31/2021	Steven Taylor	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Byrne
20	CSE	04227	3/25/2021	Dimetrius Hines	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Lassiter
20	CSE	04229	3/26/2021	Calvin Tyrone Norton	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Byrne
20	CSE	04387	3/5/2021	Morgan Sherman	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Bawtinhimer
20	CSE	04391	3/29/2021	Charles Leapley	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Bawtinhimer
20	CSE	04613	3/31/2021	Matthew Richards	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Sutton
20	CSE	04726	3/24/2021	Tara R Shantanu	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Sutton
20	CSE	04780	3/2/2021	Donald Eister	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Sutton
20	CSE	04832	3/19/2021	Michael Shaddel	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Byrne
20	CSE	05319	3/2/2021	Travis L Davison	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Malherbe
21	CSE	00001	3/30/2021	David A Daniels	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Sutton
21	CSE	00083	3/25/2021	David A Daniels	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Sutton
21	CSE	00086	3/11/2021	John W DiProfio Jr	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Byrne
21	CSE	00409	3/9/2021	Johnnie Lucas III	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Byrne

**CONTESTED CASE DECISIONS**

21	CSE	00415	3/17/2021	Romell A Smith	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Malherbe
20	DHR	01607	3/8/2021	Patrice Wilson	v.	NC Department of Health and Human Services, Food and Nutrition Services	May
20	DHR	02490	3/29/2021	David Lane King	v.	NC Department of Health and Human Services	May
20	DHR	03043	3/3/2021	LaTrese Bristol	v.	NC Department of Health and Human Services, Division of Health Service Regulation, Mental Health Licensure and Certification	Mann
20	DHR	04357	3/3/2021	Mark Fatone	v.	Department of Health and Human Services	Ward
20	DHR	05041	3/15/2021	Shatiah Royal	v.	NC Department of Health and Human Services, Division of Child Development and Early Education	May
20	DHR	05333	3/31/2021	Lisa H Ferguson	v.	NC Department of Health and Human Services	May
20	DHR	05335	3/15/2021	Jennifer Jimenez	v.	Department of Social Services	May
21	DHR	00441	3/5/2021	Andrew Williams	v.	Department of Health and Human Services, Division of Health Service Regulation	Bawtinhimer
21	DHR	00655	3/25/2021	Wendy Lea Morgan	v.	Department of Health and Human Services, Division of Health Service Regulation	Byrne
20	EHR	03062	3/3/2021	Kathryn Surratt Baker David Earl Baker II	v.	Division of Environmental Quality DS0-20-005	Mann
20	EHR	05131	3/11/2021	WASCO LLC	v.	North Carolina Department of Environmental Quality	Ward
21	INS	00167	3/23/2021	Paula W Tate	v.	North Carolina State Health Plan	Sutton
20	SOS	04225	3/3/2021; 3/4/2021	Ashley Brooke Kornegay	v.	Department of the Secretary of State	Bawtinhimer